The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. PEASE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC
March 27, 2000.

I hereby appoint the Honorable EDWARD A. PEASE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

We pray to You, Almighty God, and eternal God, ever-present to all our undertakings and all our needs. Touch every aspect of our lives with Your holiness. Endow us with faith as we begin a new week and these activities in the House of Representatives of the 106th Congress.

May Your Divine Wisdom direct all of our deliberations and be revealed in all the proceedings and laws framed by this government.

May the gracious work of Your Spirit in us preserve peace, promote national happiness and increase in the people of this Nation, dedication to industry, a sense of compassion for others and useful knowledge, so that the blessings of so many in this country may be extended to all with equal liberty.

May this House and this Nation be preserved in unity and enjoy the peace which the world cannot give, a deep and abiding peace, which is Your gift alone to give. We pray to You who live eternally

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THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day’s proceedings and announces to the House his approval thereof. Pursuant to clause 1, rule 1, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Tennessee (Mr. DUNCAN) come forward and lead the House in the Pledge of Allegiance.

Mr. DUNCAN 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundenregan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrent of the House is requested, a bill of the House of the following title: H.R. 2559. An act to amend the Federal Crop Insurance Act to strengthen the safety net for agricultural producers by providing greater access to more affordable risk management tools and improved protection from production and income loss, to improve the efficiency and integrity of the Federal crop insurance program, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2559) “An Act to amend the Federal Crop Insurance Act to strengthen the safety net for agricultural producers by providing greater access to more affordable risk management tools and improved protection from production and income loss, to improve the efficiency and integrity of the Federal crop insurance program, and for other purposes.”

The message stated that the Senate requests conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LUGAR, Mr. HELMS, Mr. COCHRAN, Mr. COVERDELL, Mr. ROBERTS, Mr. HARKIN, Mr. LEAHY, Mr. CONRAD, and Mr. KERREY, to be the conferees on the part of the Senate.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEASE). Under the Speaker’s announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SENATOR STEVENS CHOSEN ALASKAN OF THE CENTURY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. NETHERCUTT) is recognized for 5 minutes.

Mr. NETHERCUTT. Mr. Speaker, I rise today to pay special tribute to one of our colleagues, who happens to be from another State, who received a very distinguished award this weekend.

The recipient of that award was Senator TED STEVENS of Alaska who was chosen as the Alaskan of the Century.

Now, this is a remarkable achievement by Senator Stevens, since he has served this Congress for over 30 years and served the State of Alaska with great distinction and great honor and integrity for more than that period of time.

I became acquainted with Senator STEVENS as a younger man in 1972 when I was finishing the service, as a law clerk, for a Federal Judge in Anchorage, Alaska, and was hired by Senator STEVENS, came back here to Washington, D.C. in 1972, and served on his staff as his staff counsel and legislative director and then Chief of Staff, until I got married and left this community of Washington, D.C. and the Congress in 1977.

Senator STEVENS during that time and ever since has been a wonderful teacher for me and a great friend of our family, as he has been for a generation of Alaskans who have come to respect him and his work in the United States Senate and his work for our country, as well as his work for the State of Alaska.

There is no greater advocate for the State of Alaska and for the American system than Senator STEVENS. It is absolutely fitting that he receive this Alaskan of the Century award. He has served Alaska as a resident before statehood and after statehood.

He served in the Alaska legislature achieving high marks there for his service to the State, worked for the Solicitor for the Department of Interior before statehood, and then was appointed to the United States Senate in 1968, and has been reelected overwhelmingly ever since.

Senator STEVENS brings a respect for his State and our system to the Congress of the United States. He was elected as the assistant majority leader in the United States Senate. He went on to become Chairman of the Committee on Appropriations in the Senate, a position which he holds today, with a special expertise in interior issues and public lands issues, and also a great experience in defense issues.

There probably is no greater expert in the area of national security and national defense than Senator STEVENS.

The residents of Alaska recognize that, and, in choosing him to be the Alaskan of the Century, confirmed their love for him and reward him in essence for his great service to that State; a reward that he has undertaken with great passion and great commitment.

Senator STEVENS is not just a great legislator and a great American, he is a wonderful father to Susan and Beth and Teddy and Walter and Ben and...
March 27, 2000

CONGRESSIONAL RECORD—HOUSE

3583

Lilly. He is a champion for them, as well as a champion for all others in Alaska of all economic levels and all races and backgrounds. The Alaskan Native community has recognized the STEVENS legacy by respecting him, not only with their votes, but with their support.

The Alaskan Native Land Claims Settlement Act was one that Senator STEVENS championed to settle the claims of the first Alaskans. And in doing so, he has endeared himself in their hearts and in the hearts of all Alaskans. The TransAlaska Pipeline project that was just a monumental undertaking that brought energy, efficiency, and assistance to the rest of the Nation was spearheaded by this man. The 2000 Mile Fishing Limit was spearheaded by this man, Senator STEVENS.

As you total up a person’s contributions in life, I think Ted STEVENS’ greatest are his contributions, as I say, as a father, as a husband to Ann Stevens, who tragically was deceased in 1976, and his current wife, Catherine, also a great supporter of the Alaskan system.

So I speak, I hope, on behalf of all Members of Congress in recognizing Ted STEVENS’ great contributions and congratulating him for being Alaskan of the Century.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded that personal references to sitting Members of the other body are not to be included in remarks in debate in the House.

AIR WAR AGAINST SERBIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, in today’s Scripps-Howard newspapers around the Nation is an editorial entitled “Unhappy Anniversary.” It reads in part, “after its ill-advised air war against Serbia that started a year ago this month and concluded with the deaths of many innocent civilians, NATO finds itself administering a stalemate with no evident means of disengaging. The outcome certainly has not been a happy one for NATO.”

All around the world, NATO is seen as the U.S., and I think it is obvious that this war would never have been started if the White House had not insisted on it.

How easily, how cavalierly we say those words “air war” that “concluded with the deaths of many innocent civilians.”

We made the situation much worse and many thousands more were made homeless or killed by what we did there. Billions of dollars of U.S. taxpayer money down the drain and billions in damage done by U.S.-NATO forces. The U.S. is seen more and more as a big bully trying to run the whole world instead of taking care of our own country.

The globalist elite in this administration who are not satisfied just running the U.S. are making more enemies than friends for this country. We are being seen around the world as continually butting our nose into situations that are none of our business.

As the Scripps-Howard editorial says, “Kosovo is basically a problem for Europe and its institutions,” or at least it should be, and it always was.

Many months ago, at the end of the air war, William Ratliff and David Oppenheimer wrote a column in The Washington Post which said in part, “NATO’s bombings precipitated floods of refugees and other disasters that have destabilized the region in political, economic, and other terms far beyond what Mr. Milosevic could have ever done on his own.”

They added, “Since for most people NATO is America, this war has reignited anti-Americanism and suspicion of U.S. intentions from Argentina to China. Most people do not believe this war was to defend human rights, particularly since we harmed so many innocent people in and far beyond the Central Balkans.”

The Washington Post reported a few days ago that our soldiers are now having to fight and take weapons away from the ethnic Albanians, the very people we supposedly went in originally to help.

Today’s Scripps-Howard editorial says, “the Serbians weren’t killing as many ethnic Albanians as contemporary accounts claimed,” adding this in Kosovo today, the ethnic Albanians are intent on revenge on the dwindling number of remaining Serbs, Kosovar courts and police are corrupt and inefficient, and the still heavily armed Kosovo Liberation Army is staging cross-border raids into parts of Serbia.”

In other words, Mr. Speaker, the situation is a mess, and as Scripps-Howard says today, “Kosovo is a tragic example of where President Clinton ordered bombs instead of continuing with diplomacy.”

Why is it important that we talk about these things now since this air war ended months ago? Well, for two very important reasons.

First, we need to talk about this so we will not make these mistakes again. There are always numerous shooting wars going on around the world, some right now worse than Kosovo was when we went.

Second, this week, presently scheduled for Wednesday, the House is scheduled to take up a $9 billion supplemental appropriations bill, $4.95 billion, almost 5 billion of which is for our expenses in Kosovo.

This $5 billion is on top of all the billions this stupid war cost us when we were doing all the bombing. We are told that we have to pass this supplemental bill because the military has already spent this money by taking it from other accounts. However, we gave the Pentagon a huge increase in spending with the fiscal year that started just 5 months ago, about a $17 billion or $18 billion increase.

This supplemental bill, just a couple of months ago, when people started talking about it was less than half what it is now with all the things that have been added to it.

What we need now, though, is what syndicated columnist Doug Bandow calls a foreign policy for a Republic not an Empire, one that puts our country and its security first and does not have us wasting billions and making millions of enemies trying to be the policeman of the world.

We will make many more friends by bombing only as an absolute last resort and only when our own national security is threatened or a very vital U.S. interest is at stake, neither of which was the case in Kosovo.

SPECIAL ORDERS GRANTED

The following Member (at his own request) to revise and extend his remarks and include extraneous material:

Mr. NETHERCUTT, for 5 minutes, today.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:

Mr. DUNCAN, for 5 minutes, today.

ADJOURNMENT

Mr. DUNCAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o’clock and 12 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 28, 2000, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XI, executive communications were taken from the Speaker’s table and referred as follows:

6770. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department’s final rule—Imported Fire Ant; Quarantined Areas and Treatment [Docket No. 98–125–2] received January 31, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6771. A letter from the Administrator, Department of Agriculture, transmitting the Department’s final rule—Dairy Tariff Rate...
2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6804. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Airbus Model A300, A320, A321 Series Airplanes [Docket No. 99–NM–68–AD; Amendment 39–12115; AD 2000–02–30 (RIN: 2120–AA64) received February 24, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6805. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Airbus Model A300, A320, A321 Series Airplanes [Docket No. 99–NM–68–AD; Amendment 39–12115; AD 2000–02–30 (RIN: 2120–AA64) received February 24, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6806. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Boeing Model 767–100 and -200 Series Airplanes [Docket No. 99–NM–41–AD; Amendment 39–11578; AD 2000–03–01 (RIN: 2120–AA64) received February 24, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6807. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 99–NM–88–AD; Amendment 39–11568; AD 2000–03–01 (RIN: 2120–AA64) received February 24, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6808. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Boeing Model 747–200, -300, -400, and -500 Series Airplanes Equipped with General Electric CF6–80C2 Series Engines [Docket No. 98–NM–252–AD; Amendment 39–11577; AD 2000–02–31 (RIN: 2120–AA64) received February 24, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6809. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Boeing Model 737–100, -200, -300, -400, and -500 Series Airplanes [Docket No. 97–NM–133–AD; Amendment 39–11566; AD 2000–02–19 (RIN: 2120–AA64) received February 24, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6810. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Boeing Model 737–700, -800, and -900 Series Airplanes [Docket No. 99–NM–231–AD; Amendment 39–11567; AD 2000–02–19 (RIN: 2120–AA64) received February 24, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6811. A letter from the Director, Statutory Import Programs Staff, Department of Commerce, transmitting the Department’s final rule—Changes in Watch, Watch Movement and Jewelry Pairs for the U.S. Insular Possessions [Docket No. 99–20122; OCS–395–03 (RIN 0625–AA25) received March 1, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.


6813. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service’s final rule—Closing Agreements Concerning Variable Annuity Contracts [Notice 2000–9] received January 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6814. A letter from the Chairman, International Trade Commission, transmitting the results of the investigation under section 204(a) of the Trade Act of 1974 with respect to the domestic industry since quantitative limitations on imports of wheat gluten were imposed on June 1, 1998; to the Committee on Ways and Means.

6815. A letter from the Assistant Attorney General, Justice, transmitting a legislative proposal to amend the provisions of the Inspector General Act, as amended, 5 U.S.C. Appendix 3, by adding a new section 6(e); jointly to the Committees on Ways and Means, and Ways and Means for a period ending not later than April 14, 2000.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. WEINER (for himself, Ms. ROYBAL-ALLARD, and Ms. MILLENDER-MCDONALD):
H.R. 4993. A bill to amend the Truth in Lending Act to require a store in which a consumer may apply to open a credit or charge card account to display a sign, at each location where the application may be made, containing the same information required by such Act to be prominently placed in a tabular format on the application; which was referred to the Committee on Banking and Financial Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions of the following titles:

H.R. 40: Mr. KLINK.
H.R. 61: Mr. BACA.
H.R. 218: Mr. HAYES, Mr. BACA, and Mr. LEWIS of California.
H.R. 252: Mr. ARMZ, Mr. DELAY, Mr. BAKER, and Mr. PAUL.
H.R. 860: Mr. UDALL of Colorado.
H.R. 876: Mr. LATHAM.
H.R. 969: Ms. CARSON.
H.R. 1158: Mr. SANDLIN and Ms. VELAZQUEZ.
H.R. 1215: Mr. BLUMENAUER.
H.R. 1413: Mr. TERRY, Ms. LOFUREN, Mr. JENKINS, Mr. COOK, and Mr. ROMERO-BARCELÓ.
H.R. 1485: Mrs. MINK of Hawaii.
H.R. 1525: Mr. FRANK of Massachusetts, Mr. DICKS, and Mr. BAIRD.
H.R. 1967: Mr. BACA.
H.R. 2641: Mr. UDALL of New Mexico.
H.R. 2697: Mr. WEXLER.
H.R. 3714: Mr. ARMS.
H.R. 2964: Mr. CUNNINGHAM and Mr. STUPEK.
H.R. 3044: Mr. GEORGE MILLER of California.
H.R. 3180: Mr. BACA.
H.R. 3202: Mr. LOBONDO.
H.R. 3335: Mr. HEFLEY, Mr. SMITH of Washington, Mr. CALVANTS, Mr. CAPUANO.
H.R. 3375: Mr. PUCKETT, Mr. LAFAULCE, and Mr. CAPUANO.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted March 24, 2000]
Mr. ARCHER: Committee on Ways and Means H.R. 7. A bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary education expenses, and for other purposes; amending section 408A. A bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary education expenses, and for other purposes; amending section 408A; and for other purposes; with an annual amount of contributions to such accounts, and for other purposes; with an amendment (Rept. 106–546). Referred to the Committee of the Whole House on the State of the Union.
H.R. 3631: Ms. Slaughter.
H.R. 3639: Mr. Etheridge.
H.R. 3686: Mr. Blumenauer.
H.R. 3694: Mr. Gilman.

H.R. 3850: Mr. Hillery, Mr. Deal of Georgia, Mr. Portman, and Mr. Kcleeka.
H.R. 3891: Mr. Vento, Ms. Slaughter, Ms. Carson, and Mr. Gonzalez.
H.R. 4006: Mr. Weldon of Pennsylvania.

H.R. 4051: Mr. Pickering, Mr. Hyde, Mr. Herger, and Mr. Smith of Texas.
H. Con. Res. 62: Mr. Canady of Florida, Mr. Boehner, Mr. Andrews, and Mr. Wexler.
H. Res. 346: Mr. Spratt.
The Senate met at 12 noon and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The guest Chaplain, Bishop David R. Brown, Chaplain of the American Legion, offered the following prayer:

O God of our hearts, we thank You for the fullness of joy which has come to us from serving You and has made itself apparent in the growth of this great country. We ask for Your unwavering blessings that we may rediscover and strengthen the faith in ourselves, the faith in each other, the faith in the process, and the faith in You that we may live our motto “In God We Trust.”

O God of hope, grant wisdom and guidance to these men and women who have been placed in positions of trust by their peers. Lead them, O Beloved, so that the desire in each of our hearts for justice and equality will resound as a clarion call throughout this hallowed Senate Chamber. We ask that Your all-encompassing love and forgiveness make equal the voice of the power broker and the most humble citizen; make equal the voice of every citizen regardless of race, creed, or gender.

Beloved, help us to renew our faith and trust in those deeply felt spiritual and reasonable truths of our forefathers that all men and women are created equal. They proposed a theory. We ask You for the strength of heart and will to give it life throughout this period, the Senate will begin consideration of S. Res. 14 regarding the desecration of the flag. Under a previous agreement, amendments by Senators McCONNELL, and HOLINGS will be debated throughout the day.

As previously announced, there will be no rollcall votes today, with any votes ordered in relation to the flag desecration measure scheduled to occur on Tuesday at 2:15 p.m. Any Senators interested in debating this important measure should be prepared to do so today or early tomorrow.

I thank my colleagues for their attention.

MEASURES PLACED ON THE CALENDAR—S. 2284 AND S. 2285

Mr. THOMAS. Mr. President, I understand there are two bills at the desk due for their second reading.

The PRESIDENT pro tempore. The clerk will read the bills by title.

The assistant legislative clerk read as follows:

A bill (S. 2284) to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

A bill (S. 2285) instituting a Federal fuels tax holiday.

Mr. THOMAS. Mr. President, I object to further proceedings on these bills at this time.

The PRESIDENT pro tempore. Under the rules, the bills will be placed on the calendar.

Mr. THOMAS. I yield the floor.

The PRESIDENT pro tempore. The able Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that you have or will shortly call us into a period of morning business.

The PRESIDENT pro tempore. The Senate is correct.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1:30 p.m., with Senators permitted to speak therein for not exceeding 10 minutes each.

Under the previous order, the Senator from Illinois, Mr. DURBIN, or his designee, will be in control of the first 45 minutes.

TOM FEREBEE SAW HIS DUTY AND HE DID IT AT HIROSHIMA

Mr. HELMS. Mr. President, when a remarkable North Carolina native died on March 16, a more perfect world would have dictated that his death be given far more attention than it received. Attention that would have invoked memories of a distinguished, decorated war veteran; a career Air Force officer; and a conscientious, hard-working real estate agent; and most importantly, it would have kindled memories of a kind, gentle grandfather who enjoyed bass fishing and tending to his beloved roses.

But, when death came to Thomas Wilson Ferebee, some of the media mentioned these fine personal qualities only in passing, but many others will remember Tom Ferebee’s carrying out his awesome, solemn responsibility as lead bombardier on the Enola Gay. It was he, on duty that fateful day when the first atomic bomb was dropped on Hiroshima, helping to bring, finally, an end to the costly, destructive, most terrible conflict that history records as World War II.

The decision to use the atomic bomb was an extraordinarily difficult one. And, too often, revisionist historians have tried to rewrite the lessons of Hiroshima and Nagasaki, with unjustified suggestions that Harry Truman’s decision to use the bomb to end the war was immoral.

What would have been immoral, of course, would have been to force the world into a further, protracted, bloody struggle when the means were available to end it—with, in the end, less suffering, destruction, and killing.

The weight of that decision was placed on the shoulders of the crew of the Enola Gay, among whom was a farm boy from Davie County, NC. In nearby Mocksville, where Tom Ferebee went to school, nobody could have predicted that this four-sport star of baseball, football, basketball, and track would be remembered one day around the world.

Throughout his later years, Tom Ferebee was often questioned about his Enola Gay role. One journalist after another with their minds made up in advance tried to press Tom Ferebee to admit guilt about his role—which Tom Ferebee rejected, saying, for example in 1995:

I’m sorry an awful lot of people died from that bomb, and I hate that something like that had to happen to end the war. But it was war, and we had to do something to end it.

None of us who were on the Enola Gay ever lost a minute’s sleep over it. In fact, I sleep...
better because I feel a large part of the peace we have had in the last 50 years was what we brought about. If we hadn’t forced the surrender, there would have had to be a land invasion of Japan and the estimates are that a million Americans and as many Japanese would have died in it.

Which is absolutely correct. The fact is, Mr. President, that Tom Ferebee and his comrades deserve better than to be symbols of phony guilt resulting from an absolute necessity of war. Tom Ferebee knew as we do—that he did the right thing by carrying out his mission.

Mr. President, I yield the floor.

Mr. REID. Mr. President, last year we spent a great deal of time talking about whether or not we should have an $800 billion tax cut. We spent an inordinate amount of time working on that. The minority the Democrats thought we should not do that, that it was too much; that instead of having this large tax cut, we should have some targeted tax cut, much, much, much smaller. This debate went on for months. The sad part about it is, when we came to the appropriations bills, the 13 appropriations bills, suddenly there was no money. Even though there had been $800 billion set aside, supposedly for tax cuts, there was no money to take care of the expenses that were necessary in the funding of this country.

Day after day we were talked to—some say talked down to—by our friends on the other side of the aisle, that the economy would come to a grinding halt if we did not pass this $800 billion tax bill. Of course, that has not happened. Not only did the minority not buy the plan of the majority, but the American people did not buy the plan. In any poll taken, the American people decided there were more important priorities.

What were those priorities?

Education—when you have 3,000 children dropping out of high school every day, you would think that would be a priority.

Social Security is a priority. We have to make sure Medicare, a very important program that has done a great deal to help the American senior population, that has allowed them to live longer and live more productive lives—we have to make sure that as a component of that there are some benefits for prescription drugs.

We have to make sure the debt is paid down. During the Bush-Reagan years, we accumulated a huge debt of some $3 trillion. It is time we started paying down that debt. We are not going to have the rosy economic scenario we now have forever. We are in the longest economic growth period in the history of this country. We are now in the 108th or 109th month, but that does not mean it will go on forever. It will not. When the economic downturn comes, we will have paid down that debt and not have voted for irresponsible tax cuts.

It is interesting that the demagoguery and rhetoric has not stopped. It is at full blast—again, talking about tax cuts. Governor George W. Bush has recently proposed tax cuts which would add up to $1 trillion over 10 years. House Majority Whip DeLay from Texas—Congressman DeLay—last week, when asked about this, said let’s do that and even more. He wants even larger tax cuts than George W. Bush has called for. I think there could be no better example of ignoring the wishes of the American people and ignoring what the economy needs.

As justification for this $1 trillion worth of tax cuts over programs such as saving Social Security, doing something about education, Medicare, and of course doing something about the national debt, the Governor and others in the majority continually point to the overtaxing of the middle income—also aren’t included; neither are excise taxes for such items as alcohol, gaso-

In the last 50 years, there has been much talk about whether or not we should have had a large tax cut, much, much, much more. The fact is, that the plan. In any poll taken, the American people decided there were more important priorities.

The PRESIDING OFFICER. The Senator from Nevada.

THE BUDGET

Mr. REID. Mr. President, last year we spent a great deal of time talking about whether or not we should have an $800 billion tax cut. We spent an inordinate amount of time working on that. The minority the Democrats thought we should not do that, that it was too much; that instead of having this large tax cut, we should have some targeted tax cut, much, much, much smaller. This debate went on for months. The sad part about it is, when we came to the appropriations bills, the 13 appropriations bills, suddenly there was no money. Even though there had been $800 billion set aside, supposedly for tax cuts, there was no money to take care of the expenses that were necessary in the funding of this country.

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What were those priorities?

Education—when you have 3,000 children dropping out of high school every day, you would think that would be a priority.

Social Security is a priority. We have to make sure Medicare, a very important program that has done a great deal to help the American senior population, that has allowed them to live longer and live more productive lives—we have to make sure that as a component of that there are some benefits for prescription drugs.

We have to make sure the debt is paid down. During the Bush-Reagan years, we accumulated a huge debt of some $3 trillion. It is time we started paying down that debt. We are not going to have the rosy economic scenario we now have forever. We are in the longest economic growth period in the history of this country. We are now in the 108th or 109th month, but that does not mean it will go on forever. It will not. When the economic downturn comes, we will have paid down that debt and not have voted for irresponsible tax cuts.

It is interesting that the demagoguery and rhetoric has not stopped. It is at full blast—again, talking about tax cuts. Governor George W. Bush has recently proposed tax cuts which would add up to $1 trillion over 10 years. House Majority Whip DeLay from Texas—Congressman DeLay—last week, when asked about this, said let’s do that and even more. He wants even larger tax cuts than George W. Bush has called for. I think there could be no better example of ignoring the wishes of the American people and ignoring what the economy needs.

As justification for this $1 trillion worth of tax cuts over programs such as saving Social Security, doing something about education, Medicare, and of course doing something about the national debt, the Governor and others in the majority continually point to the overtaxing of the middle income—also aren’t included; neither are excise taxes for such items as alcohol, gasoline and cigarettes—on average 1 percent of income tax, the lowest since 1965. And the conservative Tax Foundation figures that the median two-earner family, making $68,605, paid 8.8 percent in 1988, about the same as 1955.

Federal income taxes are so low for so many Americans that many voters place tax cuts near the bottom of their priorities in many opinion polls.

‘‘It’s a shocker,’’ said Bill Ahern, spokesman of the Tax Foundation, of the group’s calculation that families paid just 8.8 percent of their income in federal tax. Low federal taxes make it harder to make a case for tax cuts, he added. ‘‘We’ve kept middle-income taxpayers paying so little . . . there won’t be pressure’’ for change.

George Velasquez agrees. ‘‘I don’t have any complaints on the federal side,’’ said the 29-year-old network engineer as he left an H&R Block office in Falls Church last week. Velasquez, who says he makes about $50,000, said he got hit with unexpected state taxes when he moved recently, but thinks his federal taxes are fair.

The low effective rates are the result of years of tinkering with the tax code by Congress and various administrations—rates were cut in the 1980s, millions of Americans were given a temporary break by the Bush administration in an expansion of a tax credit for the working poor, and a bevy of tax credits for children and education was added in 1997. More than one-third of eligible taxpayers pay no income taxes, according to the congressional Joint Committee on Taxation.

These effective tax rates don’t include payroll taxes to fund Social Security and Medicare, which have risen since the 1970s, now taking on average about 9 percent of income, the CBO says. Most Americans, however, now receive far more in benefits after retirement than they paid while working. Federal excise taxes for such items as alcohol, gasoline and cigarettes—on average 1 percent of income—also aren’t included; neither are state and local taxes.

But federal income taxes are a key point of contention between Texas Gov. George W. Bush and Vice President Gore in the presidential race. Bush has proposed a tax cut estimated to cost from $1.1 trillion to $1.7 trillion over 10 years as the centerpiece of his economic plan, much of it aimed at cutting tax rates for all taxpayers.

Gore has countered with what is now $350 billion in tax cuts targeted at middle-income Americans. The size of the cut has grown in recent months as the vice president has added tax breaks aimed at what a
spokesman describes as other burdens, such as the rising cost of college.

Neither man has suggested changing payroll taxes or significantly altering excise taxes. Bush has called for repealing 23 percent—4.3 cents—of the 18.4 cent federal gas tax.

“Taxes are never showing up as a major factor. As far as people wanting a big Reagan-esque tax cut, I just don’t see it. People are satisfied with their economic situation.”

In the latest Battleground 2000 poll, conducted March 10-13 by the Tarrance Group and Lake, Snell Perry & Associates, only 6 percent of respondents listed reducing taxes as a very important issue—behind restoring moral values, improving education, strengthening Social Security and improving health care.

Ceilinda Lake, a Democratic pollster, conducted a series of focus groups earlier this year that in part looked at attitudes toward taxes. She said that in contrast to previous years, “there was a lot less energy” to the tax issue because people are cautious about whether they will personally ever get much from a tax cut.

People appear more interested in government benefits that would put money in their pocket—such as for prescription drugs or college loans. Interestingly, Lake said, blue-collar workers were more interested in tax breaks than more affluent, college-educated workers who pay the bulk of taxes.

There now are five tax brackets that range from 15 percent to 39.6 percent, depending on income, deductions, exemptions and tax credits help to dramatically reduce the effective rate for many taxpayers. Bush has proposed replacing the current brackets with four ranging from 10 percent to 33 percent because, as he put it earlier this month, “after eight years of Clinton-Gore, we have the highest tax burden since World War II.”

Bush acknowledged that polls show little support for tax cuts, but said: “I’m not proposing tax relief because it’s the popular thing to do. I’m proposing it because it’s the right thing to do.”

Bush’s assertion that the tax burden is so high is based on dividing tax revenue into the nation’s gross domestic product. According to the Clinton administration’s latest budget, anticipated federal tax revenue from both corporate and personal taxes will represent 20.4 percent of gross domestic product this year, which is the highest since 1945.

The booming economy has added millions of jobs to the work force, boosting tax revenue, and many economists also attribute the surge in tax revenue in part to increased capital gains revenue from the booming stock market.

But the gross domestic product, the broadest measure of the economy, does not include capital gains income, thus overstating the impact of increased capital-gains revenue. And taxpayers making more than $200,000 pay more than three-quarters of all capital gains taxes, according to calculations by the Institute on Taxation and Economic Policy, which uses a computer model to calculate the impact of tax policy for Citizens for Tax Justice, a progressive organization.

John Celentano at the Hoover Institution and a Bush economic adviser, said the ratio of taxes to the nation’s goods and services is an accurate way to measure the nation’s tax burden. But he acknowledged that taxes have declined for many low- and middle-income Americans.

“That’s a point worth talking about,” Consuelo Cox says. The Coxes have mostly shifted to high-income Americans while taxes have decreased for others, he said.

The CBO estimates the wealthiest 20 percent of families (with average income of $132,000) paid 16.1 percent of their income in federal taxes in 1999—about the same as the Bush plan. Before the Reagan tax cuts took effect, the top 1 percent (with average income of $719,000) paid more, 22.2 percent—but still far from the 39.5 percent top rate.

Sen. Bill Armstrong, R-Colo., chairman of the Senate Finance Committee, acknowledged that federal taxes have declined for many working Americans. “We made some progress because of the Republican Congress,” he said, “and we are very proud of that fact.” But he said taxes are still too high, citing the ratio of tax revenue to the growing economy.

In many of Bush’s speeches, he expresses concern for the tax burden of ordinary Americans, such as a waitress trying to raise two children on $22,000 a year, as their incomes increase. Larry Lindsey, Bush’s chief economic adviser, agrees that tax credits and tax breaks for children are crucial tax breaks. But Lindsey said there is “an egregious problem” of higher marginal rates—how much of additional income goes to taxes—as the credits begin to phase out.

Bush’s World Wide Web site (www.georgewbush.com) includes a “Bush Tax Calculator,” which also demonstrates how low taxes are for most Americans. A family of four making $56,000 pays 8.3 percent of its income in federal tax, according to the Bush online site, which Cogan said is based on the 1999 numbers.

The online site’s calculator also says a single parent with two children making $22,000 a year pays $110 in federal income taxes, or 0.5 percent of her wages. But the Bush calculator doesn’t include the impact of the earned-income tax credit, which results in a rebate of $1,700 for this wage-earner. A single parent with two children actually doesn’t owe federal tax until her income reaches nearly $27,000.

Bush’s plan would take many Americans lower to mid-income tax payers paying so little there is a case for tax cuts. With the lower- to mid-income tax payers paying so little there won’t be pressure for change.

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According to the Washington Post and other newspapers around America, even conservative think tanks see the writing on the wall for the Conservative Tax Foundation said: It’s a shoccker.

That was referring to the 8.8 percent income tax level.

Low Federal taxes make it harder to make a case for tax cuts. With the lower- to middle-income tax payers paying so little there won’t be pressure for change.

Bruce Bartlett, senior policy analyst at the-Dallas-based National Center for Policy Analysis, another conservative group:

“Taxes are never showing up as a major factor. As far as people wanting a big Reagan-esque tax cut, I just don’t see it. People are satisfied with their economic situation.”

It is time we start addressing the real problems facing this country. Sure, we would all like less taxes, but let’s look where the taxes are coming from. They are coming from State and local government, not from the Federal Government. Take a look at payroll taxes, but get off the income tax kick.

The taxes are the lowest they have been in some 40 to 50 years, according to your tax category. Even a Bush adviser acknowledges that taxes have declined for many low- and middle-income Americans. I don’t know if this adviser for Governor Bush will continue working for him.

The problem, which is what we have been saying, as quoted in the article:

Federal income taxes are so low for so many Americans that it is little wonder many voters place taxes near the bottom of their priorities in many opinion polls.

Why are our friends on the other side of the aisle not listening to the American people? They are trying to demand first things first. What are they? Save Social Security, especially when we have the budget surpluses which allow extending Social Security’s long-term solvency. The fact can’t be ignored. We must do something about Social Security in the out-years. Republicans basically want to ignore Social Security, ignore the debt of $5 trillion, and squander this surplus with rhetoric which champions more than $1 trillion worth of tax cuts.

Remember, we have the lowest taxes in some 40 to 50 years, according to your tax category, yet most of the rhetoric on that side of the aisle has been: Lower Federal income taxes.

As I said on numerous occasions, paying down the debt is a tax cut for everyone. If we cut down the $5 trillion debt, which means we pay less interest every year as the Federal Government’s biggest obligation, other than military, we would save billions and billions of dollars every month. It seems to me that is where we should put our priorities. Paying down the debt is a tax cut for everyone. Interest saved from paying down the debt could
be credited to the Social Security and Medicare trust funds, which would extend their solvency and give us flexibility in our tax cuts. In plainer words, let’s do tax cuts we can afford.

Certainly, there are some tax cuts that are necessary. We can increase the standard deduction for both single and married filers. We can provide tax relief to married couples who suffer as a result of their having been married. We can offer a long-term tax credit, providing a deduction for long-term-care insurance premiums. In America today, people are living longer, more productive lives. As a result, there are a lot of people going to extended-care facilities. It has become a tremendous burden for people placed in these institutions. We need to provide some tax credits for people who buy insurance for their golden years. This tax cut makes it easier not only for the people who buy the insurance but for families who care for their elderly family members.

We need to increase deductions to make health insurance more affordable and accessible, especially for self-employed Americans. We need to increase the maximum amount of child care expenses eligible for tax credit. These are targeted, reasonable tax cuts that would more evenly distribute the load.

I think it is remarkable we can pick up the paper Sunday and get the good news. The good news is, Federal income taxes are the lowest they have been in America for 40 to 50 years. I think that says a lot for the 1993 Budget Deficit Reduction Act that passed without a single Republican vote; we passed it. The Vice President came to the Senate and broke the tie. As a result of that, America has been put on a long-term economic upturn. Not only has there been tremendous news in that the economy is doing well for a record amount of time but, in addition to that, taxes are lower than they have been in 40 to 50 years.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I understand we have 45 minutes in morning business set aside.

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. Mr. President, if I could be notified after 12 minutes.

NEED FOR ACTION ON PRESSING HEALTH ISSUES

Mr. DORGAN. Mr. President, I want to talk about two issues we must address in this Congress before the end of the year, both dealing with health care. I will describe very briefly why these are important and why many have been pushing for some long while to try to get the Senate to act on this issue.

First is prescription drugs and Medicare. On Friday of the past week, I was in New York City with Senator Chuck Schumer holding a hearing on the issue of prescription drugs and Medicare. I have held similar hearings in Chicago, in Minneapolis, and various places around the country as the chairman of the Democratic Policy Committee. We have had virtually identical testimony no matter where we go. and in fact. we were in. Senior citizens say drug prices are very high. When they reach their senior years, living on fixed incomes, they are not able to access prescription drugs that they need.

In Dickinson, ND, a doctor told me of a patient of his who had breast cancer. He told the woman after her surgery that she was going to have to take some prescription drugs in order to reduce the chances of the recurrence of breast cancer. When she found out what the cost of the prescription was, she said: I can’t afford to take these drugs.

The doctor said: Taking them will reduce the risk of recurrence of breast cancer.

The woman said: I will just have to take my chances.

Why did she say that? Because there is no coverage in the Medicare program for prescription drugs and because many of these prescription drugs cost a significant amount of money. Senior citizens in this country are 12 percent of America’s population, but they consume 33 percent of the prescription drugs in our country.

Last year, spending on prescription drugs in the United States increased 16 percent in 1 year. Part of this increase is the increase in drug prices and part is greater utilization of prescription drugs.

What does that mean? It means that everyone has a rough time paying for prescription drugs, especially senior citizens who live on fixed incomes. Many of us believe that were we to create a Medicare program today in the Congress, there is no question we would have a prescription drug benefit in that program.

Most of these lifesaving prescriptions were not available in the sixties when Medicare was created. But a lifesaving prescription drug can only save a life if those who need it can afford to access it. That is the point. That is why many of us want to include in the Medicare program a benefit for prescription drugs. We do not want to break the bank. We want to do it in a thoughtful way. We would have a copayment. We would have it developed in a manner that allows senior citizens to choose to access it or not. They could either participate in this Medicare prescription drug program or they could decide not to do it.

In any event, we ought to do something on this subject. Those of us who have come to the floor over and over again saying this is a priority believe with all our hearts this is something we should do for our country.

I will take a moment to describe part of the pricing problem with prescription drugs. The U.S. consumer pays the highest price for prescription drugs of anyone else in the world.

I ask unanimous consent to show a couple of pill bottles on the floor of the Senate.

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

Mr. DORGAN. Mr. President, these are two pill bottles. They are a different shape, but they contain the same pill made in the same factory, made by the same company.

This happens to be a pill most of us will recognize. It is called Claritin. It is commonly used for allergies. This bottle of 100 tablets, 10 milligrams each, is sold in the United States for $218. That is the price to the customer in the United States. The same pill is sold in Canada. It is the same pill made by the same company, in the same number of tablets and the same strength, but this bottle costs only $61.

The same bottle of pills is $218 to the U.S. consumer; to the Canadian consumer, $61. By the way, the Canadian price has been converted into U.S. dollars.

One must ask the question: Do you think the pharmaceutical manufacturers are losing money in Canada selling it for $61? I guarantee you they would not sell it there if they were losing money, but they charge 358 percent more to the U.S. consumer. I will demonstrate another drug.

These two bottles contain Cipro. It is a common medicine to treat infection. This time, the drug is actually packaged in the same type of bottle, with the same marking, same coloring, and containing the same pills made by the same company. Incidentally, both were approved by the FDA in the United States. Cipro, purchased in the United States, 500 milligram tablets, 100 tablets, costs $399. If one buys the pills in the same bottle in Canada, it is $171. The U.S. consumer is charged 239 percent more.

We need to do something about two issues: One, we need to put some downward pressure on pharmaceutical drug prices and to ask the legitimate question: Why should the American consumer pay higher prescription drug prices than anyone else in the world? Is that fair? The answer, of course, is no.

What does it mean to those who can least afford it? It means lifesaving medicine is often not available to those who cannot afford access to it. I can tell my colleagues story after story of folks who came to hearings I held in Chicago, New York, and all around the country describing their dilemma. There were people who had double lung transplants, heart transplants and cancers, talking about $2,000 a month in prescription drug costs.

This is serious, and this is trouble for a lot of folks. We need to do something
about putting downward pressure on prescription drug prices.

I have a solution for that, and that is to allow US pharmacists and distributors access to the same drugs in Canada and to bring it down and pass the savings along to the US consumers. We have to pass a law to do that. We are having a little trouble passing that bill.

Second, we need to add a prescription drug benefit to the Medicare program. I will now turn to the Patients’ Bill of Rights, which is the second piece of legislation we ought to get done. The Senate has passed a bill, some call it the “Patients’ Bill of Goods” because it did not do much and it covered few people. The House passed a bipartisan bill, the Dingell-Norwood bill. Democrats and Republicans joined to pass this bill and I am glad it is there.

The Senate and House bills are in conference. The House appointed conferees who voted against the House bill because the House leadership does not support the bipartisan bill that passed the House. We have a paradox of conferees from the House who, by and large, do not support the House bill, which is the only good bill called the Patients’ Bill of Rights.

I will describe a couple of the elements of the Patients’ Bill of Rights, which are so important.

First is the situation with Ethan Bedrick. One might say: You have done that before; that is unfair. It is not unfair. Health care denied to individuals is a very personal issue. When we have a framework for health care delivery in this country that denies basic health care services under certain HMOs and certain policies to people who need it, it is perfectly fair to talk to people in the Senate about the need to change public policy.

This is little Ethan Bedrick from Raleigh, NC. When he was born, his delivery was very complicated. It resulted in severe cerebral palsy and impaired the motor functions in his limbs. As you can see, he has bright eyes and a wonderful smile. When he was 14 months old, his insurance company curtailed his physical therapy. Why? Because they said he only had a 50-percent chance of walking by age 5. A 50-percent chance of walking by age 5 is not enough, they said. This is a matter of dollars and cents, so Ethan shall not get his physical therapy.

Is it fair to raise these questions? Of course it is. Should someone like Ethan with a 50-percent chance of walking by age 5 have an opportunity for the physical therapy he needs? You bet. Should we have a Patients’ Bill of Rights that will guarantee him that access under an HMO contract? You bet.

We have in the House of Representatives Dr. Greg Ganske, a Republican, and very courageous fellow. I might add. He is one of the key sponsors of the Patients’ Bill of Rights in the House of Representatives. Dr. Ganske is also someone who has done a substantial amount of reconstructive surgery.

He used this photograph, which is quite a dramatic photograph showing a baby born with a very serious defect, a cleft lip and cleft palate. Dr. Ganske was a reconstructive surgeon before he came to Congress. He said he routinely saw HMOs turn down treatment for children with this kind of defect because they said it was not medically necessary.

I thought when I heard Dr. Ganske make that presentation the first time: How can anyone say correcting this is not medically necessary?

Then Dr. Ganske used a picture which showed what a correction looks like when reconstructive surgery is done. Isn’t it wonderful what can happen with good medicine? But it can only happen if that child has access to that reconstructive surgery.

Is it a medical necessity? Is it fair for us to discuss and debate the Republican policy? The answer is clearly yes.

Let me also mention a case I have discussed before on the floor of the Senate, young Jimmy Adams. Jimmy is now 5. When he was 6 months old, he developed a 105-degree fever. When his mother called the family’s HMO, they were told they should bring James to an HMO-participating hospital 42 miles away, even though there were emergency rooms much closer.

On that long trip to the hospital, this young boy suffered cardiac and respiratory arrest and lost consciousness. Upon arrival, the doctors were able to revive him, but the circulation in his hands and feet had been cut off. As you can see, he lost his hands and feet.

Why didn’t they stop at the first emergency room that was closer? Because the HMO said: We will only reimburse you if you stop at the emergency room we sanction. So 42 miles later, this young boy had these very serious problems and lost his hands and feet.

What are we to make of all this? We have very significant differences in the Patients’ Bill of Rights between the House and the Senate. The differences in the bill of rights in the House and the Senate are the differences dealing with medical necessity. As used in HMO contracts:

Medical necessity means the shortest, least expensive or least intense level of treatment, care or service rendered or provided, as determined by us.

The fact is, health care ought not be a function of someone’s bottom line. Young Ethan, young Jimmy, or the young person born with a severe birth defect, like the cleft palate defect of the type I described, ought not be a function of some insurance company’s evaluation of whether their profit or loss margin will suffer by providing treatment to these patients.

A woman fell off a cliff in Virginia, dropped 40 feet and was rendered unconscious. She went into a coma and was brought in with no room and treated for broken bones and a concussion. They wheeled her into the emergency room on a gurney, while unconscious, yet the HMO later, after she survived, said: We will not pay for your emergency room treatment because you did not have prior approval.

This is a woman, unconscious, in a coma, wheeled into an emergency room, but she did not get prior approval. That is the sort of thing that goes on too often in this country in health care. It ought to be stopped. It can be stopped if we pass a Patients’ Bill of Rights. Not if we pass a patients’ bill of goods that someone tries to misname to tell their constituents they have done something when, in fact, they stood up with the insurance companies, rather than with patients. We need a Patients’ Bill of Rights that really digs in on these issues: What is a medical necessity? Do patients have a right to know all of their options for treatment, not just the cheapest? Do they have those rights?

The piece of legislation that was passed in the House gives patients those rights. The piece of legislation the majority passed in the Senate does not. We are going to continue to fight to try to get something out of this conference committee that medical patients in this country, that the American people can believe will give them some basic protection, some basic rights, so that the kinds of circumstances I have described will not continue to exist in this country.

Health care ought not be a function of someone’s profit and loss statement. People who need lifesaving treatment ought to be able to get it. The ability to access an emergency room during an emergency ought not be something that is debatable between a patient and an HMO.

Those are the issues we need to deal with in the coming couple of months—both of them health care issues, both of them important to the American people. I hope that as this debate unfolds, we will have some bipartisan help in trying to address prescription drugs in Medicare, No. 1, and, No. 2, passing a real Patients’ Bill of Rights that will give real help to the American people.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I ask unanimous consent I be able to proceed in morning business for a period of 12 minutes.

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

BUDGET PRIORITIES

Mr. JOHNSON. Mr. President, this week the Senate Budget Committee is
about to proceed with a markup of the budget resolution, an effort that is overdue. Not only it will be taken up this week, I think we should examine the context in which the budget resolution will be considered in the Senate.

There was some awfully good news for American families this weekend. It was announced this weekend that the Federal income tax burden for American families has shrunk to the lowest level in 40 years. Who says this? Studies by both liberal and conservative tax experts, the administration, and two arms of the Republican-controlled Congress confirmed that the Federal income tax burden for families in America is lower than it has been for 40 years.

The middle fifth of American families, with an average income of $38,100, paid 5.4 percent in income tax last year compared to 8.3 percent in 1981.

A four-person family, with a median income of $34,900, paid 7.46 percent of their income in income tax—the lowest since 1965. And a median two-earner family, making $68,605, paid 8.8 percent in 1988, which is about the same as 1955.

In fact, one-third of American families no longer pay income tax.

That is the context in which we need to take up what we are going to do as a people relative to our newfound economic prosperity that is being projected by so many.

We need to remember, too, how we arrived at this point.

In 1993, when President Clinton took office, he inherited a budget with a record deficit of $290 billion per year. In 1993, we passed the Budget Act with a record deficit of $290 billion per year. Lower- and middle-income Americans had the smallest tax burden in 40 years, as noted by the study that came out this weekend. And we are now paying down debt.

By the end of fiscal year 2000, the Treasury expects to have reduced our debt held by the public by about $300 billion—that is "billion" with a "B"—from where it was only 3 years ago.

Now we have this great national debate. The experts in both the House and the Senate are projecting about a $3 trillion surplus over the coming 10 years. And $2 trillion of that is attributable to Social Security. To the good credit of the Senate, that is the context in which we need to do this. The debate is that it is going on today. It is going on between the two Presidential candidates. It has been going on between the parties. The American public themselves are trying to digest what kind of vision we have for America in the first 10 years of this century, the first 10 years of this millennium.

George W. Bush has said he knows what to do with the $1 trillion dollars: essentially give it all back in a tax cut, commit to that now. If $1 trillion doesn't actually show up, too bad, because Social Security, Medicare, and virtually everything else we do will be in jeopardy.

There are others, including myself, who say, first, be prudent about whether this trillion is going to materialize. To the degree that it does, let us look at making sure that we protect the long-term viability of Medicare, which is in shaky financial condition. Most concur. Secondly, let us put some additional dollars towards paying down the debt. That will keep the interest rates down. It will continue to foster economic growth and prosperity. It will make the ability to buy a car, a house, to create new jobs, to run a farm or ranch all cost less. It will do more than many other things the Federal Government could do.

Third, let's make sure we do make key investments in our schools. We have crumbling schools all across the country. We have schools that have a greater need for better technology. We have schools that still do not have problems all the way from Early Head Start through our graduate programs and research programs, including our technical and vocational programs.

Let's put some dollars there as well. That will create a foundation for continued economic growth and prosperity, if we continue to invest in the minds of American citizens.

We are in a global economy today. The world is full of people who work as hard as any American for a dollar a day. The question is, Do American workers bring to the table more than just a willingness to work hard but also bring with them the technical skills and intellectual abilities to do the work the world cannot do? That is where we need this growing, developing, and constructive partnership between the Federal, State, and local government, public and private, whereby we empower more American citizens to take care of their own needs, to grow the economy, and to make sure America remains the foremost economic power in the world bar none.

Yes, in the context of how to use this $1 trillion, let's try to find some room for tax relief, too, but let's target it to middle-class and working families, families who have the most difficult time meeting their bills. When you look at Edward G. Kennedy's proposal, it is blown on a tax cut, with nothing for the schools, nothing to invest, nothing to reduce the deficit, nothing to protect Medicare, at least not to the degree that it needs to be done. Then look and see who are the winners and losers on this.

President Clinton, with his middle-class family gets about a $500 tax cut; a million-dollar-a-year income gets about a $50,000 tax cut. That is not fair, not when we are being told we don't have the money to build new schools. We can't pass a bond issue in most of the counties in my State of South Dakota. Real estate taxes are through the roof. Our ag economy is not doing well. We are wondering how to replace all those 1910, 1920 vintage schools across my State. We are looking at still a great many children who would benefit from Early Head Start programs, Head Start programs. We are looking at all the things we need to do to prepare ourselves for the increasingly challenging economy of this coming century, the coming millennium.

The world is full of people who work as hard as any American for a dollar a day. The question is, Do American workers bring to the table more than just a willingness to work hard but also bring with them the technical skills and intellectual abilities to do the work the world cannot do? That is where we need this growing, developing, and constructive partnership between the Federal, State, and local government, public and private, whereby we empower more American citizens to take care of their own needs, to grow the economy, and to make sure America remains the foremost economic power in the world bar none.
bad red-ink days of the Reagan-Bush years and the years before that which were bipartisan, both parties were in the red prior to 1993, for over 30 years. We don’t want to go back to those days.

To the degree we have these dollars to utilize, let’s make sure we cover an array of needs we have. Paying down further debt; protecting Medicare; investing in our schools, education, making us a more competitive society; doing some things for our families; and, yes, some tax relief as well. But let’s do it all in that package rather than some sort of radical libertarian vision of America where the role of the Federal Government is to guard the border and deliver the mail. Many of our friends seem to think we shouldn’t be delivering the mail anymore either.

I think it’s not that we are moderate, mainstream view. The American people are not ideologues. They are not far to the left. They are not far to the right. They don’t want the Government to do everything, and they don’t want a situation where the Government does nothing. They are commonsense about their vision of where we need to be. I think we should use caution in taking public opinion polls too seriously around this place.

Time after time, poll after poll taken reveals the American public is on the side of this more balanced, thoughtful, deliberative approach to how we are going to position ourselves to be in a situation of strength in the years to come. A lot of people’s eyes glass over when we talk about budget issues, dollars and cents, talking about trillions of dollars. It is almost unfathomable. Yet at the heart of it all, where our real values and priorities lie is determined by those dollars-and-cents decisions that this body is making which we are about to begin this week.

The rhetoric is never lacking. The rhetoric is always in favor of almost everything. But when it comes time to see whether we are going to protect the environment, whether we are going to help our kids, whether we are going to rebuild schools, strengthen Medicare, whether we are going to do something about prescription drugs and health care, as Senator Dorgan from North Dakota has noted, whether we are going to do these kinds of things is, in large measure, dictated by the dollars-and-cents decisions we make on this floor.

This is going to be a very crucial week. We will be establishing a budget resolution. I am fearful from what I see headed our way that there is a likelihood that it will be another partisan political exercise at a time when the American public is rightfully frustrated by the lack of ability of the two parties to work together as well as they should. If that is the case, we will see, as we go through the 13 separate appropriations bills or omnibus bill in the end, as may wind up being the case, whether we come out in a way that is, in fact, balanced, which does, in fact, use the resources of this administration has ignored our nuclear waste storage crisis, moved to breach hydropower dams in the northwest, forced regulation upon regulation on other energy production technologies, and displayed a complete disregard for the men and women who find and produce domestic supplies of oil and natural gas.

In fact, this administration has virtually ensured that the oil price crisis we are now facing will pale in comparison to the electricity price and supply problems that are just around the corner for our nation’s electricity consumers. I know both the energy producers and consumers of Minnesota are astutely aware of the general energy transmission problems that will grip our state in the not-too-distant future. Those problems are not confined to Minnesota. Many States in the upper Midwest face generation and transmission shortages, as do States across the country. Those problems are rooted in the failure of this administration to comprehend the generation needs of a growing economy and the transmission requirements of that growing demand.

While I strongly believe that, in the absence of a coherent administration energy policy, Congress needs to step in and forge its own path for meeting the long-term energy needs of our economy, I’ve come to the floor today to talk about the need for some short-term measures to address high oil prices.

In Minnesota, farmers are preparing to enter the fields for spring planting. They’re trying to budget for the year and put in place a budget plan that will allow them to position this spring on the table and put their children through school. As everyone knows, doing these most basic things is not an easy task when commodity prices are low, the weather is uncooperative, and government regulations eat away at the ability to make a profit. This year, however, farmers have a new worry that threatens to make matters even worse—the growing price of diesel fuel and gasoline. Farming is an extremely energy intensive industry. Everything farmers do require energy; from plowing the field to milking the cows, energy is an essential part of a farm’s bottom line.

Likewise, truckers throughout America are essential to delivering the products we use in our everyday lives to markets across the country. Without truckers, we wouldn’t have access to most of the things we all take for granted on a daily basis. Even the Internet becomes virtually worthless to consumers if truckers can’t deliver to our doorsteps the products we buy. Like farmers, truckers rely heavily upon stable energy costs to make a living and run their businesses. When fuel...
prices go up, truckers feel the impact first. Too often, they have to absorb the increases in fuel prices, but it’s not long before farmers and other large energy consumers feel the increased transportation costs.

Many of us in the Senate have witnessed the stream of truckers from across the country who have descended upon Washington, D.C., in recent weeks. They have come to their Nation’s Capitol not because they want government to give them something, but because they cannot make a living when the Department of Energy is caught napping on the job. They expect, demand, and deserve an Energy Department that comprehends the importance of energy costs to our economy and has a long-term plan for meeting the needs of energy consumers.

Mr. President, I know I do not have to remind my colleagues of how the rising cost of oil threatens almost every aspect of our economy and communities. Senior citizens on fixed incomes cannot absorb wild fluctuations in their energy costs. Business travelers and airlines cannot afford dramatic increases in airline fuel costs. Families struggling to feed and educate their children cannot withstand higher heating bills, increasing gasoline costs, or the domino effect this crisis has on the costs of goods and services.

To begin addressing this problem, I have joined Majority Leader Trent Lott, Senator Larry Craig, and a number of my colleagues in offering legislation to repeal the 4.3-cent gas tax, restore the Highway Trust Fund and not spending any of the Social Security surplus. Our legislation is aimed at getting some short-term relief directly into the hands of energy consumers. Our bill will eliminate 4.3-cent tax on gasoline, diesel, and aviation fuel so the American consumer can see some relief at the pump when they fuel up for a day on the road, in the field, or traveling to and from school or work. Our bill will eliminate the 4.3-cent tax on gasoline, diesel, and aviation fuel so the American consumer can see some relief at the pump when they fuel up for a day on the road, in the field, or traveling to and from school or work. Our bill will eliminate the 4.3-cent tax on gasoline, diesel, and aviation fuel so the American consumer can see some relief at the pump when they fuel up for a day on the road, in the field, or traveling to and from school or work.

For me, this legislation boils down to a very simple equation. Are we going to sit by and do nothing as farmers prepare to enter the fields this spring, or are we going to take whatever short-term actions we can to support our farmers and provide them with a needed boost? Are we going to help those most impacted by high fuel costs, or are we going to ignore their needs and let them absorb thousands of more dollars in fuel costs this summer? There is overwhelming proof that the Clinton Administration’s complete rejection of a national energy policy has caused this mess, so I believe the Congress must step in and help get them out of this mess, so I believe the Congress must step in and help get them out of this mess.

I joined my colleagues in the Senate earlier this year in requesting and receiving emergency releases of Low-Income Home Energy Assistance funding. We did so on at least three separate occasions, and I’ve supported the President’s request for $600 million in additional funding this year. This crucial funding for Minnesota and many other cold weather states was a vital short-term approach to mitigating the impact high fuel costs have had on senior citizens and low-income families. Our constituents were in need, and we responded exactly as we should have. As I started earlier, more of our constituents are in need, and by responding with a reduction in the Federal gasoline tax, Congress can again act in a way that is expected, even demanded, by our constituents.

I have heard some of my colleagues argue that 4.3 cents a gallon has a negligible impact on consumers. To them, I say look at the amount of fuel a farmer or trucker consumes during an average week. Look at the thousands of gallons of diesel fuel required to operate a family farm or deliver products from California to Maine. Or look at the high profit margins that can make the difference between going to work and being without a job. I’m convinced this action is going to help farmers, truckers, businesses, and families in California to Maine, and that’s why I strongly support it.

For those who are concerned that eliminating the 4.3-cent gas tax is going to deplete important highway and infrastructure funding, we’ve included language in this legislation that will ensure the Highway Trust Fund is completely protected. The Highway Trust Fund will be restored with on-budget surplus funds from the current fiscal year as well as the fiscal year 2001.

If gas prices reach $2 a gallon, on-budget surplus funds will allow additional reductions in the gas tax without impacting the Highway Trust Fund in any way. Depending on the size of the administration’s complete rejection of a national energy policy could provide a complete reduction of federal gas taxes until January 1, 2001 if prices rise to, and remain above, the $2 mark. Let me make this very clear: we are not going to raid the Highway Trust Fund with this legislation. In fact, we’ve ensured that the on-budget surplus will absorb all of the costs of the gas tax reduction. I also want to assure my colleagues and my constituents that this legislation walls off the Social Security surplus. We will not spend any of the Social Security surplus to pay for the gas tax reduction.

Our legislation is quite simply a tax cut for the American consumer at a time when it’s needed most. We’re going to use surplus funds—funds that have been taken from the American consumer above and beyond the needs of government—and give them back to consumers every day at the gasoline pump.

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those things—what is the division between the responsibility of the Federal Government, local government, and State Government. I think there are obviously some of the most important issues with which we deal. These are broad issues. These are philosophical issues. The budget has a great deal to do with it.

In fact, I suspect that the total amount of expenditures is probably the most important issue we deal with all year, depending on how you view the role of Government. Keep in mind this year we will spend about $1.8 trillion. That is $1,800 billion in the Federal budget. About a third of that will be so-called discretionary funding, which is determined by the Congress. The remainder, two-thirds of that, $1,600 billion, will be mandatory spending—things we owe, Social Security, Medicare, and others.

We are dealing with setting a budget that basically is an expenditure limit on that discretionary spending, which last year, as I recall, rose about 7.5 percent more, much more than inflation. This year I think there is an effort being made to see if we can control that level of spending. It has to do with the size of Government. Clearly, everyone has different views, of course, as to how to adequately fund programs we think are most important—the priorities the public sets through their representatives in terms of Government programs.

One of the things it seems to me we haven’t done as well as we might is to review programs that have been in place for a very long time. Some of them, obviously, are important programs that need to go on. Others were designed to do something for a relatively short time, but they are always there. They never go away because we do not have the opportunity to have the oversight to see if, in fact, those programs have accomplished the things they were designed to accomplish, and if, indeed, those dollars can be spent more productively in some other programs.

We find ourselves in a situation of having these programs that have been in place forever and are almost automatically funded and the obvious need for new programs from time to time as time and needs change. It is simply an accumulation of programs. Those of us who occasionally say to ourselves that we ought to control the size of Government, have to take a look at those kinds of issues.

I hear my friends talk about the evils of tax reduction. They ought to review that a little bit, it seems to me.

First of all, we ought not spend Social Security dollars for operating funds. We have been doing that for 40 years, but we have not done that in the last 2 years. We hear our friends on the other side of the aisle and the administration and President Clinton saying:

Save Social Security. Not one program has come from them as to how to do that.

These young pages sitting here will pay out of their first paycheck 12.5 percent for Social Security. The likelihood is, if we don’t do something, that they will not have benefits when they are eligible for them.

We need to do something. We have a plan. We set aside at least a portion of that for individual retirement accounts. Let it belong to the persons who made it, and, indeed, let them invest in private sector equities or bonds so that the return is much higher.

The choices we have are fairly simple. We can reduce benefits. Nobody wants to do that. We can increase taxes. I don’t know of anybody who wants to do that. Social Security taxes are the biggest that most people pay of any tax. Or we can increase the return for the trust funds. We are for that. The administration has no plan at all other than to say: Save Social Security.

We need to do something about paying down the debt. Most everyone would agree with that. The debt that the President brags about paying down is taking Social Security money and putting it into debt. It would be replacing public debt, but it is still debt. It is debt to the Social Security trust fund.

What I propose and what I think we ought to do is set money aside just like with a home mortgage, and each year we will take so much money. It will take this amount of money to pay this year’s obligation to pay off the debt in real dollars. So instead of being replaced by Social Security dollars, that debt is being reduced. That is what we are for. The President has no plan. All we hear him talk about is what nothing is happening.

Then, quite frankly, we talk about taxes. What are we talking about, at least to some extent, is not simply reducing debt. It is a fairness issue. The marriage penalty tax is a fairness issue. Why should two people who work independently and are married pay this amount of tax? That isn’t fair. It is a fairness issue. It is not just tax reduction.

There are ways to change the estate taxes. The Presiding Officer has a proposal that estate taxes ought to be paid when they pay taxes as a matter of capital gains. Good idea. Then there is money left, unless one continues to spend it.

People talk about taxes and balancing the budget and the economy growing starting in 1993. I am sorry, it didn’t start in 1993; it started in 1991. It has been going on for a good long time. I cannot imagine the President’s tax increase has contributed a great deal to the economic growth.

People have different views. That is what it is all about. We have different views of how we best serve this country. There are many views.

We talk about fourteen leaders of the OPEC nations are meeting in Vienna to discuss boosting oil production. I appreciate the efforts of Secretary Richardson. I hope the answer is they will increase production. That is a good thing to have happen.

We have to talk about how we got ourselves in a position of having to go over to OPEC, saying: We have real problems; will you help us out? And then we do not get much of a response from the very group we have contributed so much to, not only in dollars but in the Gulf war. Then we find them deciding whether we will do us a favor by increasing oil production.

How did we get where we are? I think we have had a lack of a policy regarding, whether it be for coal and gas in the whole sphere of energy. I come from the largest coal-producing State. This administration has made it increasingly difficult to produce energy as it has sought to close down energy producing sites because of maintenance.

We find ourselves depending on others and that puts at risk not only our economy but also our security. We find ourselves now in the neighborhood of 57 percent dependent on foreign oil. We see consumption going up each year; domestic production is going down at the same time.

What are some of the reasons? Some are what have happened in the last few months in terms of this administration which has set about to leave a “land” legacy—and I understand Presidents desire to have different legacies. This is called a land legacy where they will set aside more and more private lands and put them into public ownership to have a billion dollars that they can spend on their own discretion without going through the process of Congress and appropriations to acquire more Federal lands.

In my State of Wyoming, nearly 50 percent of our land belongs to the Federal Government. Selfishly, it makes a lot of difference if the land can be used as multiple-use public lands, if we can protect the resource, protect the environment, but also use those lands—whether for hunting, for recreation, for grazing, water, not only in coal and gas production. We can do these things in such a way that we have multiple use as well as protection of the environment.

This administration has moved in a different direction. I have been on the Energy Committee since I came here in 1994. We have not had from the Energy Department a coherent policy on energy for a very long time. We had a meeting this morning on the Kyoto treaty, the meeting in Japan where we were supposed to sign a treaty which would reduce our energy by about 40 percent, while asking less of the rest of the world. Of course that has not been
agreed to. As a matter of fact, this Senate voted 95–0 not to agree to it—not that we shouldn’t be doing something about clean air, not that we shouldn’t be doing something to reduce the effect of economic growth—but not to just sign a treaty that says we are going to put ourself at a disadvantage.

This is part of where we are, including access to Federal lands, where we have 40 million acres, using the Antiquities Act, to set aside other lands for single purpose uses. We have had for some time offshore oil drilling, one of the great opportunities to provide domestic oil. We have tried from time to time to do something to give a tax advantage for marginal oil wells so they would produce, but the administration is opposed.

We talked about looking at ANWR, to do more producing in Alaska, to provide more domestic oil so we are not totally dependent on foreign countries to provide that energy source. That is not only good for the economy and jobs, but it is a security measure.

Since 1992, oil production is down 17 percent in the United States; consumption is up 14 percent. In just 1 year under this administration, oil imports increased almost 8 percent; they are now getting close to 60 percent. DOE predicts a 65-percent oil dependency on foreign oil by the year 2020. We have become even more dependent.

The United States spends about $300 million each day on imported crude oil, $100 billion each year. We are concerned the trade deficit from oil amounts to about one-third of the trade deficit. Now we are looking at short-term issues when we have to do is take a look at the longer term resolution to these problems.

The policy would change this, and, as we look forward to, is increased access to public land, continuing to emphasize, however, the idea that we need also to protect the environment. We can do that.

I mentioned tax incentives that would increase production. We need to look at the Clean Air Act and the Clean Water Act which is being used to reduce the use of lands as well. It has a real impact to a lot of people in my State which is largely a State that has mineral production.

In 1990, U.S. jobs exploring and producing oil amounted to over 400,000; in 1999, these jobs are down to 293,000, a 27-percent reduction in the ability of America producing our own oil. In 1990, we had 657 working oil rigs; now it is down to 153, a 77-percent decline.

I think we need to take a long look at where we are and where we want to go. Any government looking at energy has to recognize the stewardship responsibility that we have for that environment. We do that. At the same time, we have to be able to produce for ourselves so we have the freedom and opportunity to continue to have the strongest economy in the world, the greatest for jobs, while strengthening our security.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

## ENERGY POLICY

Mr. CRAIG. Mr. President, I come to the floor this afternoon to join my colleague from Wyoming who has so clearly outlined in the last few moments part of the problems our country faces at this time relating to energy policy, or a lack thereof.

As I speak on the floor, as my colleague has just completed his comments, all eyes are turned on Vienna. That is not Vienna, NY, that is Vienna. Austria, where the members are meeting to decide whether they will be generous enough to turn their valves on a little more and increase crude oil production to a million or a million and a half barrels a day so that our gas prices will come down at the pump. I was interested in such studies as we as ours now find itself so dependent upon a group of nations, almost all of them quite small but all of them very rich in crude oil? How do we find our-selves dependent on their thinking? What is the reason we find ourselves dependent? This is part of what my colleague from Wyoming was talking about. It is the loss of production units and the drop in number of rigs out exploring, and that is all our fault, our fault collectively as a nation, for having failed over the last several decades to put in place an energy policy that had, as its first criterion, relative independence from other nations of the world as suppliers of our fundamental energy-base need for crude oil, crude oil production for our petrochemical industry.

I have been to the floor several times in the last couple of weeks to speak about this because the price at the pump today is not an aberration. It is not something that was just quick in coming. We, as a country, have known for some time this day would be at hand. Several years ago, we asked our Government to investigate whether a lack of domestic production would put us at some form of vulnerability as to our ability to defend ourselves. The answer was yes. Those studies were placed on the desk of our President, Bill Clinton. Nothing was done. A year ago similar studies were done, and they reside on the President’s desk as we speak. They have been there since last November, and nothing has been done.

Only in the last month has the President sent his Secretary of Energy out and about the world, with his tin cup in hand, begging—begging producing nations to turn their valves on a little bit.

What is the consequence of turning your valve on at the pump? The consequence is a reduction in the overall world spot price of crude oil. When you do that, the cash-flow pouring out of the OPEC nations of the world declines; oil production goes up, cash-flow declines. Why would they want to do that? Out of the generosity of their hearts?

For the last year-and-a-half or 2, they have been in political disarray. During that time, they were largely pumping at will into the world market. A year ago, we saw crude oil prices at $10 a barrel on the world market. Today, they are over $30. Now $19 a barrel is probably too low, but $30 is a huge and bountiful cash-flow to the treasuries of these countries—Saddam Hussein’s country, the man whose country we fought against to free Kuwait and the Kuwaiti oil fields less than 10 years ago.

In fact, it was Northeastern Senators who, some months ago, wrote a letter to our President asking him to become sensitive to this issue because they were aware, with the run-up in oil prices—what we are seeing in the $30—minute the OPEC nations got their act together—the Northeastern Senators would see their States hit by heavy home heating oil costs. Sure enough, that is what happened. It happened because of the run-up in price. It also happened because of a loss of refinery capacity that has been going on for some time.

What was going on in the Northeast, 2 and 3 months ago, is now going on across America. I come from the West, where energy prices are extremely high and the impact on goods and services, and our citizens, can be dramatic. So even if the OPEC oil countries decide to raise crude oil output, my guess is it will be just a little bit. It may sound like a lot to the average person—a million, million-and-a-half barrels a day—and it could bring crude oil prices down a little bit. But the OPEC nations’ goal is to keep crude oil prices above $20 a barrel and therefore keep regular gas at the pumps at somewhere in the $1.40 to $1.50 range. That is still a dramatic increase, nearly doubling east coast prices. It will be even higher on the west coast.

The failure of the Clinton-Gore administration to recognize it, to understand it, and therefore to deal with it, is one of the great domestic and foreign policy tragedies of the decade. I say that from an economic point of view, but it is true also from a defense point of view—our ability to defend ourselves and stand it, and therefore to deal with it, to just sign a treaty that says we are going to put ourself at a disadvantage.

Here are some statistics. Probably everyone’s eyes glazed over a little bit while we get these statistics out. It is important for the record. U.S. crude oil production is down by 17 percent since 1992. We have actually had wells shut off and shut in. What does that mean?
March 27, 2000

CONGRESSIONAL RECORD—SENATE 3597

The price of oil got so low, they could no longer have the capability of producing.

U.S. crude oil consumption during that same period of time went up 14 percent: 17 percent down in production, 14 percent consumption. It sounds like a ready-made situation for a crisis, and that is exactly where we find ourselves today. The United States is 55-percent dependent on those nations that are meeting in Vienna at this moment; 55-percent dependent for so much of what we do. That is dramatically up from just a couple of decades ago when we were in the mid-30s, relating to dependency.

While all of this is going on and nothing is being done by this administration, and most of what we are trying to do here has either been denied or vetoed or blocked by this administration, the U.S. Department of Energy estimates we will have a 65-percent dependence on foreign producers by the year 2020. Some would say that is good because we will not have the environmental risks in this country; we will not be drilling and we will not be refining as much, and therefore the environmental risks will be gone.

What they did not tell you is, it puts hundreds of new supertankers out there on the open ocean on a daily basis—even if our foreign neighbors will produce and even if they will sell to us, hundreds more of those huge supertankers out there in the open ocean, coming into our ports, offloading. Let me tell you, there are greater environmental consequences for that than the use of today’s technology on our land or out in our oceans, drilling, finding, and shipping of the oil.

The United States is spending $300 million a day on imported crude oil. That is $100 billion a year flowing out of this country to the coffers of the OPEC nations. That is big money, huge money, in any sense of the words. We sit here and wring our hands over a balance of payments, yet we do nothing to bring that production back to our shores and to be able to control our own destiny in the production of crude oil.

As I mentioned, the world oil price reached over $30, about $34 a barrel on March 7. It is down a little bit now on speculation that the OPEC nations today will make decisions that will increase production. But, of course, we already know energy prices on the west coast are at nearly $2 a gallon at the pump and are certainly extremely high here. More than half of all crude oil we use, about 18 million barrels per day, goes directly into home heating oil, motor gasoline, diesel fuel, and other transportation fuels.

The Clinton-Gore administration has failed to do one single thing to develop more of our Nation’s crude oil reserves, of which we have an abundance. In fact, I was watching CNN a few months ago; and the oil industry would suggest only about half of the crude oil capability of this Nation has been used since we first discovered crude oil. Only about half of it has been used. The rest of it is under the ground. It is more difficult to find, more expensive to produce, but it is still there, and the great tragedy is we are not producing it. In fact, we are doing quite the opposite.

Since this administration has come to town, there has been an anti-oil attitude from a standpoint of domestic production. From the very beginning, they pushed through a 4.3 percent gas tax increase. They argued it was for deficit reduction. But when one listens to the President when he talks about crude oil and combustion engines and how negative they are to the environment and we ought to tax them out of existence—and he has said all of those things; I am paraphrasing, but it is not new; he has been replete in those expressions over the years—it is not unexpected that he cast the single vote that broke the tie between Democrats and Republicans on this floor that put the gas tax in place.

We now are looking to try to take that gas tax off in the very near future, at least roll it back a ways, and give our consumers some flexibility. We are going to balance the budget this year and have surpluses. Why not use some of that surplus money to offset the runup in expenses that consumers are now feeling at the gas pump at this moment and that certainly our transportation industry is feeling? It ought to be something we do.

I argue that we hold the highway trust fund fully in our control. That is the trust fund that funds the pouring of concrete for our roads and our bridges and creates hundreds of thousands of jobs a year in the building and rebuilding of our infrastructure. Those need to be funded. I do not argue they should not be. But here we are dealing with a surplus, fighting with our Democrat colleagues over whether we should give tax relief to the taxpayers this year. What better way to give some of it back to the American people at the pumps? Most Americans today who drive cars find themselves paying increasingly higher fuel bills.

For the next few moments, I will talk about rural America. I come from a rural State. Many of us do. While runups in energy costs are dramatically impacting urban America, it is even greater in rural America. Why? It is quite simple. Many of my friends in Idaho drive 50, 60, 70 miles a day to just get their kids to school or just to shop in the local towns. That is not unusual in rural America.

All of the goods and services that flow to our farms and from our farms travel on the backs of 18-wheeler trucks, all consuming diesel oil. Diesel oil is now acquired by farmers across the Nation as they enter our fields for the spring farming season. All of that is going to drive up the overall cost of the farmers this year. In agriculture, farmers have experienced a 4-year run of very commodity prices and have found most of their farms and ranches below break even. Now, because of an absence of a national energy policy, they find their cost of production could double, at least the energy fuel. Many of the tools they use—the insecticides, the pesticides, and the herbicides that are made up of oil bases—are going to go up dramatically in cost.

In my State of Idaho, farming and ranching, logging and mining are also an important part of the rural economy. All of them very energy intensive. Those industries have found themselves nearly on their backs from the last few years at a time when we see energy costs ready to double or triple.

We have heard it from the homeowner and the apartment dweller in the Northeast for the last several months, that their fuel costs have doubled, their heating bills have doubled. Some are having to choose food over warmth or warmth over food. Many are senior citizens on fixed incomes.

While we have tried to offset some with help from Washington, we have not been able to do it all. And in the next month and a half, we are going to hear it from the farmers and the ranchers as their fuel bills skyrocket.

We have already heard from the truckers. They have been to town several times, and many of our independent truckers are literally driving their trucks into their driveways, shutting them down, and not turning them back on, therefore, risking bankruptcy and the loss of that income-making property because they cannot afford to pay the fuel bills.

Why? It is time we ask why, as a country, and it is time Congress dealt with at least some short-term provisions while we look at and strive for some long-term energy policy.

I do not think one can expect the Clinton-Gore administration to be very helpful, except begging at the doorsteps of the palaces of the sheiks of the OPEC nations, because that is their only energy policy.

Those are the kinds of things we are looking at and abiding by. I think this Congress will attempt to respond and respond in a positive way for the short-term provisions while we look at long-term policy to increase production of crude oil inside the 50 States of our Nation in a way that we can control it, we can shape our energy future without a group of energy nations meeting in Vienna having a choke hold around our very neck.
Secretary of the Interior Bruce Babbitt is talking about taking down valuable hydroelectric dams in the Pacific Northwest—the administration does not consider hydropower a renewable resource. Electricity from hydro meets about 10 to 12 percent of U.S. needs.

Environmental Protection Agency Administrator Carol Browner is trying to shut down coal fired electric generating plants in the Midwest—which depends on those plants for 88 percent of its electricity. The U.S. depends on coal for 55 percent of its electricity needs.

While the Clinton-Gore administration tried to kill off the use of coal fired electricity it is doing nothing to increase the availability of domestic natural gas which is the fuel generators will use if they cannot use coal. To replace coal the U.S. must increase its use of natural gas by about 10 trillion cubic feet per year.

Federal land in the Rocky Mountain West could contain as much as 137 billion cubic feet of natural gas but the Clinton-Gore administration refuses to allow any oil and gas exploration on those lands.

Last week the President announced his plans for dealing with our current energy problem. Once again, his emphasis focused on conservation and renewable energy sources like solar, wind and biomass. We cannot put windmills on trucks or solar panels on trains or barges.

The Clinton-Gore administration has refused to even consider allowing exploration in the Alaska National Wildlife Refuge which could contain up to 16 billion barrels of domestic crude oil which could easily be moved to refineries in the lower 48 through the Alaska pipeline.

The Vice President has vowed to prohibit any future exploration for oil and natural gas on the Federal outer continental shelf where there are clearly areas that have great potential for new domestic energy supplies. The President recently closed most of the Federal OCS to any exploration until 2012.

The Clinton-Gore administration embraces the Kyoto Protocol which would impose staggering economic costs on the United States. The Protocol would require energy producers to reduce their use of fossil fuels like oil, natural gas and coal to achieve reductions in emissions of carbon dioxide—which is not a pollutant under the Clean Air Act and has not yet been proven to be the cause of climate change. The U.S. Senate voted 95-0 to reject it.

Clearly, there is a pattern.

It started in 1993 when the Clinton-Gore administration proposed a $73 billion 5-year tax to force U.S. use of fossil fuels down.

It continues with misguided Federal land use policies, environmental policies designed not necessarily to protect the environment but to kill fossil fuel use, and continues with administration support for the economically punitive Kyoto Protocol. This administration hates the fossil fuel industry and apparently the economic well-being these abundant and relatively cheap fuels have helped the U.S. economy achieve.

These are the words of the Vice President:

"Higher taxes on fossil fuels . . . is one of the logical first steps in changing our policies in a manner consistent with a more responsible approach to the environment."


"To me it is pretty clear that this administration is unwilling to commit to a rational energy policy that will help America's families."

I yield the floor.

FLAG DESECRATION
CONSTITUTIONAL AMENDMENT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider S.J. Res. 14, which the clerk will read as follows:

A joint resolution (S.J. Res. 14) proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

The Senate proceeded to consider the joint resolution.

Mr. GRAMS. Mr. President, the Constitution begins with the ringing words—"We the People"—for a reason. In our great nation, the people are empowered to decide the manner in which we are to be governed and the values we are to uphold. I join 80 percent of the American people in the belief the flag of the United States of America should be protected from physical desecration. And I am blessed to live in a nation where the will of the people can triumph over that of lawyers and judges.

In light of the U.S. Supreme Court decisions Texas v. Johnson (1989) and United States v. Eichman (1990), which essentially abrogated flag desecration statutes passed by the federal government and 48 states, a constitutional amendment is clearly necessary to protect our flag. This would take the issue of flag protection out of the courts and back to the legislatures where it belongs. As Chief Justice Rehnquist stated in his dissent, "Surely one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people—whether it be murder, embezzlement, pollution, or flag-burning."

Mr. President, the fight to protect "Old Glory" is a fight to restore duty, honor and respect for the land of our country to their rightful place. As Justice Stevens noted, "The flag uniquely symbolizes the ideas of liberty, equality, and tolerance."

These are the values that form the bedrock of our nation. We are a nation comprised of individuals of varying races, creeds, and colors, with differing ideologies. We need to reinforce the values we hold in common in order for our nation to remain united, to remain strong.

Sadly, patriotism is on the decline. This is dangerous in a democracy. Just ask the military recruiters who can't find enough willing young people to fill the ranks of our military during this strong economy. What happened to the pride in serving your country? Where are the Americans willing to answer the call?

Protecting the flag reflects our desire to protect our nation from this erosion in patriotism. It signals that our government, as a reflection of the will of the people, believes that Americans should treat the flag with respect. The men and women of our armed forces who sacrificed for the flag should be shown they did not do so in vain. They fought, suffered, and died to preserve the fundamental freedoms which allow us to proclaim that desecrating the American flag goes too far and should be prohibited.

To say that our flag is just a piece of cloth—a rag that can be defiled and trampled upon and even burnt into ashes—is to dishonor every soldier who ever fought to protect it. Every star, every stripe on our flag was bought through the sacrifice of the men and women of our armed forces.

That's dangerous in a democracy. Just ask the military recruiters who can't find enough willing young people to fill the ranks of our military during this strong economy.

The flag of the United States of America is a true, national treasure. Because of all that it symbolizes, we have always held our flag with the greatest esteem, with reverence. That is why we fly it so high above us. When the flag is aloft, it stands above political division and above partisanship.

Under our flag, we are united.

Most Americans cannot understand why anyone would burn a flag. Most Americans cannot understand why the Senate would not act decisively and overwhelmingly to pass an amendment extending the flag protection it deserves.

This simple piece of cloth is indeed worthy of Constitutional protection. I urge my colleagues to follow the will of "We the People" and accord the American flag the dignity it is due by supporting Senate Joint Resolution 14.

The PRESIDING OFFICER. Under the previous order, the Senator from Kentucky, Mr. McCONNELL, is recognized to offer an amendment in the nature of a substitute.

AMENDMENT NO. 2885

(Purpose: To provide for the protection of the flag of the United States and free speech, and for other purposes)

Mr. McCONNELL. Mr. President, I send an amendment to the desk pursuant to the order previously entered.

The PRESIDING OFFICER. The clerk will report the legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL], for himself, Mr. BINGAMAN, Mr.
follows:

**SEC. 1. SHORT TITLE.**

This Act may be cited as the “Flag Protection and Free Speech Act of 1999”.

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) the flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example of freedom unmatched throughout the world;

(2) the Bill of Rights is a guarantee of the liberties and freedoms that define our Nation and should be concerned about the desecration of that symbol.

(b) PURPOSE.—The purpose of this Act is to provide the maximum protection against the use of the flag of the United States to promote violence while respecting the liberties that it symbolizes.

**SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.**

(a) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:

§700. Incitement; damage or destruction of property involving the use of the flag of the United States.

“(a) Definition of Flag of the United States.—In this section, the term ‘flag of the United States’ means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and that would be taken to be a flag by the reasonable observer.

“(b) Actions Promoting Violence.—Any person who destroys or damages a flag of the United States with the primary purpose and intent to instigate, incite, or encourage imminent violence or a breach of the peace, and under circumstances in which the person knows that it is reasonably likely to produce imminent violence, or creates a risk of imminent violence, shall be fined not more than $100,000, imprisoned not more than 1 year, or both.

“(c) Damaging a Flag Belonging to the United States.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to another person, and who intentionally destroys or damages that flag, shall be fined not more than $250,000, imprisoned not more than 2 years, or both.

“(d) Damaging a Flag of Another on Federal Land.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States, or under the exclusive or concurrent jurisdiction of the United States, steals or knowingly converts to his or her use, or the use of another, a flag of the United States belonging to another person, and who intentionally destroys or damages that flag, shall be fined not more than $250,000, imprisoned not more than 2 years, or both.

“(e) Construction.—Nothing in this section shall be construed to indicate an intent to prevent the use of any flag of the United States, or the Commonwealth of Puerto Rico of jurisdiction over any offense under which it would have jurisdiction in the absence of this section.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 33 of title 18, United States Code, is amended by striking the item relating to section 700 and inserting the following:

“700. Incitement; damage or destruction of property involving the use of the flag of the United States.

The PRESIDING OFFICER. Under the previous order, there shall be 2 hours for debate on the amendment equally divided, with an additional 30 minutes under the control of the Senator from West Virginia, Mr. BYRD.

Mr. MCCONNELL. Mr. President, the amendment that I sent to the desk is on behalf of myself, Senator BENNETT, Senator CONRAD, Senator DORGAN, Senator DODD, Senator TORRICELLI, Senator BINGAMAN, Senator BYRD, and Senator LIEBERMAN.

I am glad we are having this debate today. The American flag is our most precious national symbol, and we should be concerned about the desecration of that symbol.

This debate is also about the Constitution which is our most revered national document. Both the flag and the Constitution represent the ideas, values, and traditions that define our Nation. We have American flags and given their lives defending the truths these both represent. We should be concerned with defending both of them.

Today I am proud to offer, along with the colleagues I previously listed—Senator BENNETT, Senator CONRAD, Senator DORGAN, Senator DODD, Senator TORRICELLI, Senator BINGAMAN, Senator BYRD, and Senator LIEBERMAN—the Flag Protection Act as an amendment in the form of a substitute to the bill before us.

This amendment would ensure that acts of deliberately confrontational flag-burning are punished with stiff fines and even jail time. My amendment will help prevent desecration of the flag, and at the same time, protect the Constitution.

As all of us do, I revere the flag. Among my most prized possessions is the American flag which honored, as he was laid to rest, my father’s service in World War II. That flag rests proudly on the marble mantle in my Senate office. Further, one of my first acts as chairman of the Rules Committee last year was to offer, along with the senior Senator from New Hampshire, Mr. SCHATZ, an amendment to the Standing Rules of the Senate to prohibit that we begin each day’s business in the Senate Chamber with the Pledge of Allegiance to the flag.

I want to be perfectly clear, I have no sympathy for those who desecrate the flag. These malcontents, simply grabbing attention for themselves by infringing the passions of patriotic Americans. There is no reason we should respect them or what they are saying.

Search that incites lawlessness or is intended to do so merits no first amendment protection, as the Supreme Court has made abundantly clear. From Chaplinsky’s “fighting words” doctrine in 1942 to Brandenburg’s “incitement” test in 1969 to Wisconsin v. Mitchell’s “physical assault” standard in 1993, the Supreme Court has never protected speech which causes or intends to cause physical harm to others.

This is the basis for this legislation. My amendment outlaws three types of illegal flag desecration. First, anyone who destroys or damages a U.S. flag with a clear intent to incite imminent violence or a breach of the peace may be punished by a fine of up to $100,000, or up to 1 year in jail, or both.

Second, anyone who steals a flag that belongs to the United States and destroys or damages that flag may be fined up to $250,000 or imprisoned up to 2 years, or both.

And third, anyone who steals a flag from another and destroys or damages that flag on U.S. property may also be fined up to $250,000 or imprisoned up to 2 years, or both.

Some of my colleagues will argue that we have been down the statutory road before and the Supreme Court has rejected that road. However, those arguments are not valid with respect to this amendment I am now discussing.

The Senate’s previous statutory effort to address this issue wasn’t tied to the explicit teachings and principles of the U.S. Supreme Court.

Put simply, my statutory approach for addressing flag desecration is completely compatible with the first amendment and in no way conflicts with the Supreme Court’s relevant rulings in the two leading cases: Texas v. Johnson, (1989) and U.S. v. Eichman, (1990).

In the Eichman case, the court clearly left the door open for outlawing flag burning that incites lawlessness. As is made clear by these distinctions in cases and the direction pondered by the Supreme Court in Eichman, my amendment will pass constitutional muster. But you don’t have to take my word on it. The Congressional Research Service has offered legal opinions concluding that this initiative will withstand constitutional scrutiny. CRS said:

The judicial precedents establish that the [Flag Protection Act], if enacted, while not
reversing Johnson and Eichman, should sur-
vive constitutional attack on First Amend-
ment grounds.

In addition, Bruce Fein, a former of-
icial in the Reagan administration and re-
spected constitutional scholar, con-
curs. He said:

[The Flag Protection Act] falls well within
the protective constitutional umbrella of
Branchenburg and Chaplinsky . . . [and it]
also avoids content-based discrimination
which generally frowned on by the First
Amendment.

Several other constitutional-
specialists also agree that this initiative
re-
spects the first amendment and will
stand against constitutional challenge. A
memo by Robert Peck, formerly of the
ACLU, and Professors Robert O'Neill
and Erwin Chemerinsky concludes that
this legislation “conforms to constitu-
tional requirements in both its purpose
and its provisions.

And, these three respected men have
looked at the few State court
cases which have been decided since we
had this debate a few years ago and have
reiterated their original finding of con-
cstitutionality.

As I am sure you will hear later
today, opponents of my amendment
have asked a number of constitutional
scholars to find constitutional con-
cerns with my bill. One of the most re-
markable responses was from Professor
William Van Alstyne, a professor at
Duke Law School and a dean of con-
stitutional law. Professor Van Alstyne
wrote that although he is not in favor of
any law or constitutional amend-
ment punishing those who abuse the
flag, he did not find any constitutional
infirnity with my legislation.

In closing, I would like to share some
thoughts recently conveyed by General
Collin Powell, a great American. In a
recent letter he so eloquently ex-
pressed his sentiments which explain
my own. He wrote:

I understand how strongly so many . . .
respect the flag, and I understand the
powerful sentiment in state legisla-
tures for such an [constitutional] amend-
ment. I feel the same sense of outrage.
But I step back from amending the Constitu-
tion to relieve that outrage. The First
Amendment exists to insure that freedom of
speech and expression applies not just to
that with which we agree or disagree, but
also to which we find outrageous.

I would not amend that great shield of de-
mocracy to hammer a few miscreants. The
flag will still be flying proudly long after
they have slunk away.

There is nothing wrong with the Bill
of Rights or the first amendment. It
has stood the test of time for 200 years.
It would be unfortunate if we began
tampering with the important and fun-
damental protections of the first
amendment because of a tiny handful
of malcontents. This is especially true
when we have this viable, constitu-
tional statutory alternative, which I
have just offered, for dealing with
those malcontents who would desecrate
one of our Nation’s most cherished
symbols.

Mr. President, I ask unanimous con-
sent that the full text of the various
memos and letters to be printed in the
RECORD. I note that
some of the memos refer to S. 982 in
the 105th Congress and some refer to
S. 1335 in the 104th Congress. These
bills were introduced in different sessions
of the Congress they are, in fact, the
same amendment.

I would also like to refer Senators
and other interested parties to the
CONGRESSIONAL RECORD for April 30,
1999, pages 54488–54489 and the following
supporting memos and letters: state-
ment of Bruce Fein, Esq. and state-
ments of Robert S. Peck, Esq. et al.

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

FAIRFAX STATION, VA.
May 11, 1999.
HON. MITCH MCCONNELL,
U.S. Senate, Washington, DC.
DEAR SENATOR MCCONNELL: Recently, Sen-
ator Hatch sent an inquiry to a number of
constitutional scholars raising questions
about the constitutionality of your bill, S.
931, the Flag Protection Act of 1999. One of
those scholars, Professor William Van
Alstyne, one of the deans of First Amend-
ment law, wrote back that he found no con-
stitutional infirmity in the legislation.
In reaching that sound conclusion, Professor
Van Alstyne allied himself with the Congress-
ional Research Service and with Professor
Robert O’Neil of the University of Virginia,
who also serves as the Founding Director of
an important First Amendment study cen-
ter, the Thomas Jefferson Center for Free
Expression, Professor Erwin Chemerinsky of
the University of Southern California,
former Associate Attorney General Bruce
Fein and myself, a constitutional lawyer and
law professor.

One letter received by Senator Hatch did
raise several questions about the legislation.
It was jointly signed by Professors Richard
Parker and Erwin Chemerinsky.

As you know, Professor PARKER is an advisor to
the Citizens Flag Alliance (CFA) and a sup-
porter of the flag desecration constitutional
amendment. Professor Tribe himself has
previously given his blessing to the amend-
ment which is generally frowned on by the First
Amendment and will never claim that the First
Amendment is the CFA’s entire reason
for the proposed statute, that the First
Amendment would not be violated by a law
punishing use of the flag to incite violence.
The constitutionality of S. 931. As Ohio’s Supreme Court
ruled in its prosecution by a realistic con-
cern for preventing violence. Id. at 399. This
statement, by itself, should be viewed as de-
finitive authority in favor of the constitu-
tionality of the gun law. As Ohio’s Supreme Court
held, relying on Johnson, punishing use of
the flag to incite violence poses no constitu-
The U.S. Supreme Court was given an oppor-
tunity to correct the Ohio decision, if correc-
tion was needed, but chose not to take the
case. The Supreme Court has issued a stat-
ute aimed at dealing with violence without
any adverse court ruling as to its constitu-
If state law could enact such a statute aimed
at dealing with violence without any adverse
court ruling as to its constitutional
validity, the federal authorizing interest is sig-
ificantly greater and such a statute would be
valid exercise of a valid authority. See Section 3(b)—Professor PARKER and Tribe also claim that the bill’s punishment for use

Congressional Record—Senate
March 27, 2000

3600

Congressional Record—Senate
of the flag to incite violence draws an impermissibility because it becomes an activitively suppresses, through threat of punishment, those forms of expressive use of the flag that are intended and likely to incite violence. This is a reaction against, and legitimate cause, of the Court's 1984 landmark holding that all incitement and conspiracy statutes that rely on criminal communications invalid. Yet, as demonstrated by the Johnson Court's language quoted above, the Supreme Court anticipated a statute along the lines of S. 931 and found it valid.

Contrary to the letter drafted by the two distinguished professors, the constitutionality of S. 931 should not give any Members of Congress pause. The Court has virtually invited Congress to pass such an Act and indicated its validity. Because wise constitutional counsel and the lessons of history clearly indicate that such a statute should not be undertaken when a statutory resolution is available, it is impermissible, under serious consideration to S. 931 rather than embark on a constitutional journey that holds implications for our freedoms that even the most foresighted cannot anticipate.

Sincerely,

ROBERT S. PICK, Esq.

DUKE UNIVERSITY
SCHOOL OF LAW,
Durham, NC, March 31, 1999.

Senator ORIN G. HATCH,
Chairman, Senate Judiciary Committee,
Dirksen Senate Office Bldg., Washington, DC.

DEAR SENATOR HATCH: I have reviewed S. 1335 styled "The Flag Protection and Free Speech Act of 1999." I believe that the November 8, 1995 Memorandum of the Congressional Research Service than with that provided by my able colleagues at Northwestern (Steve Presser) and Utah (Paul Cassell). In brief, as narrowly construed and rigorously applied, the principal section of the act (§3(a)) may not be inconsistent with the First Amendment and may withstand judicial scrutiny when drafted. I say this because as thus narrowly construed and applied, §3(a) may only apply in situations where the government's interest in regulating conduct that contains elements of expression, the two professors make the same error that was made by the Wisconsin Supreme Court and corrected by the U.S. Supreme Court. In striking down a hate-crime sentencing enhancement law on First Amendment grounds, the Wisconsin court asserted that the U.S. Supreme Court's R.A.V. decision preordained the result. The U.S. Supreme Court then unanimously reversed the Wisconsin court. It recognized, as Professors Parker and Tribe assert about S. 931, that the Wisconsin statute singles out for enhancement bias-inspired conduct, "but found that this singling out posed no First Amendment issue because such conduct is thought to inflict greater individual and societal harm, Wisconsin v. Mitchell, 508 U.S. 476, 487-88 (1993). Among those legitimate concerns for harm contained in the law that the Wisconsin Supreme Court enumerated were: a concern for inspiring retaliatory crimes, the distinct emotional harms visited upon victims, and the likelihood that community unity would be engendered. Id. at 488. The Court further found that the "desire to redress these perceived harms requires an adequate explanation for its enhancement provision over and above mere disagreement with offenders' beliefs or biases." Id.
all, to achieve some other aim), moreover, the crime, if such it is, is likely, at least "reasonably likely" in fact, as his actions would have precisely that consequence (as he fully intended) even as he fully understood that such conduct may be a means chosen deliberately to provoke a violent reaction and to be subject to criminal penalties (e.g., for incitement of lawless action either against himself or threatened with injury) by anything other than a law of the land. As he himself, so far as I can determine, it will cover no instance of public flag "desecration" of any of the many (allegedly) offensive kinds of American flag when one does so to "make a political statement," rather than merely "to incite a violent response."

4. Subsection (a)(3) of § 2, separately declares that "abuse of the flag . . . may amount to fighting words," which doubtless is true (i.e., it may, just as the provision thus also extends, as it does) to the extent of meaning, however, that it does not include this latter matter quite clear in a relevant fashion, §2(a)(4) (which immediately precedes §3(a)—expressly distinguishes any and all conduct that respects a flag when one does so to "make a political statement," rather than merely "to incite a violent response."

5. B. Necessarily, all of this should mean that even if the circumstances were such that violence (or a breach of peace) could reasonably be expected to result as a consequence of any such action, as it was not his primary purpose or intent to incite to violence, he was being punished for some other reason (e.g., as it was not his primary purpose or intent to incite to violence, he was being punished for a breach of peace). As such, it would cover not only the particular action, as was also "reasonably likely" (unlike the provision merely to declare that abuse of the flag may be a means chosen deliberately to provoke a violent reaction and if undertaken just for that purpose or to provoke a violent reaction—it is the author's understanding that such conduct when intended to incite a violent response rather than to make a political statement is outside the protection of this provision. Again, taken this was, the observation may be substantially correct—but in being correct, it also covers very little ground.8

6. D. The just-quoted portion of Spence, moreover, was itself taken from a still earlier "flag—abuse" case, itself once again, how, of course, the events involving a demonstrative destruction (burning) of a flag on the public street, with the defendant's conviction once again reversed on First Amendment grounds. In Street v. New York, as in each of these other real cases, it was plain on the facts that the incident was one involving the public expression of political feelings that were not recognized by the state statute forbidding the destruction of the flag of the United States was in fact "intended to incite a violent response rather than make a political statement."

IV. Briefly Then To Sum Up: Unless the critical provision of the act is applied more broadly than a tightly constrained construction would approve

(a) If thus construed (as it can be construed to apply only in circumstances consistent with the requirements of Brandenburg v. Ohio, within that restricted field of application, it may well be sustained in the Supreme Court;

(b) However, as thus very tightly constrained, it will not reach many—possibly not the vast majority of the various "burning" cases, or other "flag desecration" or "flag abuse" cases involving varieties of political expression and political demonstration, yet somehow not under the First Amendment protection, much less any that appear to meet the full requirements of the act.

(c) Moreover, the cases it—whether may clearly reach without substantial risk of not reaching any other case in the United States that involves a demonstrating court to be protected by the First Amendment protection.
to violence or riot) as state and federal criminal law, for whatever it is, it will be most unseemly, and I cannot reasonably expect I have just posed, and may be for- is there, if anything, of a constitutionally proper concern, that is honestly sought to be served by the act?

V. I am frankly unable to answer this last question, and I believe it may be for- any resistance to it.

Yet, if so, is this, then, finally to be the ex- ample of “liberty” and of “freedom” we now mean to handover to the world—That Americans are free to burn the English Union Jack, or despoil the French Tricolor, or trample the flag of Canada, South Africa, Israel, or Mexico. Will that be, like, in messages and demonstrations of dis- content or protest as they may freely occur in this country, but assuredly not (or not so far as this Congress will be given license by the Supreme Court to prevent it) as to make any equivalent use of our own? And indeed that this is how we now want to present our- selves to the world?

But I would hope, Senator Hatch, that you and your colleagues would think otherwise, and that you will conclude that—to wrap the flag in the rags of criticism of events of critical import (in this way—as this and virtually every similar bill)77 seeks to do—would be a signal mistake. Its occasional burning, utterly un- attended by arrest, by prosecution, by sanc- tions of jail and imprisonment, is surely a far better tribute to freedom than that it is never burned—but where the explanation is not that one is ever so moved to do (we know some are) but are stayed from doing so by fear of being imprisoned, as some would seek to have done. That kind of inhibiting fear is a far more powerful check on behavior around the world. It is furnished in a place called Tianamen Square. It is a quiet, well-ordered place. But Tianamen Square is not what would normally be understood as an arena of restrained quietude of repression, it has a desuetude of fear, it is a place occupied by the harsh re- quirements of criminal law. It furnishes no example whatever of a sort we should desire to emulate or pursue.

So, I hope in the end that you and your colleagues may come to believe the flag of the United States is not honored by putting those who “abuse” it, whether in some egre- gious or in some petty incendiary fashion, in prison. It is the flag, however, as true as even as Jefferson spoke more generally to such matters in his first Inaugural Address,80 leaving them “undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to com- bat it,” as surely is true.

Sincerely,

WILLIAM VAN ALSTYNE.

FOOTNOTES

1 It is the firm practice of the Supreme Court to construe acts of Congress very stringently (i.e., nar- rowly) when any basis for construing would lead to a disregard of the public interest. (For useful and pertinent examples, see National Endow- ment for the Arts v. National Endowment for the Arts, 118 S.Ct. 2689 (1998); Watts v. United States, 394 U.S. 705 (1969); Yates v. United States, 354 U.S. 198 (1957).)

2 That controlling case is almost certainly to be found in Brandenburg v. Ohio, 395 U.S. 444 (1969) (discussed infra, in footnote 9).

3 not a secondary or even related, co-equal, objec-

4 To be sure, other sections do reach some other acts (e.g., “damaging a flag belonging to the United States” (§ 700(c)) by burning or defacing it), but these provisions are doubtless secondary in sig- nificance for situations for which there is no slight discussion of these provisions as they are worth- ing of the Court’s attention. Indeed, however, the proviso re “a flag belonging to the United States.” (See e.g., Spence v. Washington, 418 U.S. 405 (1974) (considering the constitutionality of a statute that the State or National Governments constitutionally may forbid anyone from mishandling in any manner a flag that is public property.) As to a flag merely owned by a third party, that one “steal[s], know- ingly convert[s], and destroy[s],”75 there may be—as other commentators have pointed out—(the problem in this regard would not appear to meet any of the requirements under United States v. Batchelder, 554 U.S. 160 (2008) on the face of it, it seems the subsection is not necessarily inac-

5 Subsection (a)(4) of § 2, (“Findings and Purposes”) declares (with emphasis and bracketed material added) that “destruction of the flag—a core [but need not be] intended to incite a violent response rather than make a political statement and such con- duct (presumably meaning by ‘such conduct’ only such conduct as is intended to incite to a vio- lent response and not intended to make a political statement) is likely to incite a political disturbance of the peace, much less the threat of riot, by persons afrointed or made angry over one’s performance. (For which he was promptly prosecuted under the relevant Texas statute punishing acts of physical desecration of venerated objects including the flag, as one such object, under the state and successfully appealing that conviction to the Su- preme Court.)


7 Johnson was not arrested or prosecuted for “in- citing, or attempting to incite, a riot or violence, nor is there any reason to think he would not have been charged with that offense had the arresting of- ficers believed there were suitable grounds (rather than the clear fact that he was in the midst of a pro- test—to incite or to provoke a riot—in burning the flag in a public place—as an incident of expressing his views).” The Lopez, American Booksellers v. Hudnut, 771 F.2d 323 (7th Cir. 1985), summarily aff’d, 475 U. S. 1001 (1986); Houston v. Hill, 482 U.S. 452 (1987); People v. Cohen, 403 U.S. 15 (1971) (“This is whether California can exercise, as ‘offensive conduct’ one particular scrivernus epithet from public discourse, either upon the theory . . . that its use is in- herently likely to cause violent reaction or upon a more general assertion that the State, acting as guardian of public morality, may properly remove this offensive word from the public vocabulary.”) .

8 Whether as “a political statement” or for any other purpose.

9 As thus construed and applied, it may meet the test provided in Brandenburg v. Ohio, 395 U.S. 444, 447 (1969) (“[O]ur decisions have fashioned the principle that the guarantee of free speech . . . do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is therefore not merely political speech, but ‘advocacy’ of such action.”). If such “advocacy” (i.e., such “speech act” as one engages in) is directed to “inciting or pro- voking or producing the condition of a serious disturbance of the public order in anticipation of a serious disturbance of the peace, much less the threat of riot, by persons afrointed or made angry over one’s performance. (For which he was promptly prosecuted under the relevant Texas statute punishing acts of physical desecration of venerated objects including the flag, as one such object, under the state and successfully appealing that conviction to the Su- preme Court.)


11 Id at 412.

12 And in Spence, note, too, that the Court had also declared: “Nor may appellant be punished for failing to show proper respect for our national emblem (cit- ing still previous decisions of the Court).” There was no novelty in any of this. The Court has for decades made clear that any person, indeed, by very nature of the office he holds, must be above all (as mandated by the oath he takes) protect the flags and other symbols of our nation at home and abroad, at all costs. The Court has thus had occasion to consider during the past fifty years, in- volving politically controversial uses of the flag. Some of these are discussed infra in the text.

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17 Id at 416.

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21 Whether or not by means one could expect to stir some to resentment or anger (that it may do so
The PRESIDING OFFICER. The Senator from Utah is recognized.

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

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. Mr. President, I yield such time as he may need to Senator BENNETT.
already made up my mind and had already made public statement of my intention to oppose the flag amendment. I say I oppose the flag amendment but claim they want the Hollings amendment, they should adopt the same kind of consistency that the Washington Post urged upon the rest of us. If they oppose the flag amendment, they should oppose the Hollings amendment with respect to campaign finance reform as well.

The Hollings amendment on its history will lose. It will lose overwhelmingly because most people do not want to tinker with the first amendment. One of my colleagues said: I don’t want to look back on my history as a Senator and say the most significant vote I cast the whole time I was there was one that weakened the Bill of Rights. I don’t want to support the flag amendment, and I do not intend to vote for the Hatch amendment. I think it is consistent that we stand firm to protect the liberties of the people to express their views however much we disagree with them.

A final footnote, if it is that: The Senator from Kentucky has shown great leadership in crafting a bill that can solve this nonexistent problem for those who insist that we must have a solution in a statutory way. It will not amend the Constitution. It will lay down a statutory marker to which all of us can repair. I urge the adoption of the statutory solution to this situation as drafted by the Senator from Kentucky and urge the Senate not to tinker with the first amendment and first amendment rights, either in the name of protecting the flag or in the name of clean elections, both of which are worthwhile goals. There are better ways to do this in this Chamber, we can debate those ways. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, I listened with great interest to the comments of the junior Senator from Utah, with whom I agree on this entire point.

One of the items I would like to engage him on—I certainly didn’t cover it in my comments, and in listening to him, neither did he—was the definitional difficulty, in addition to all the other reasons why the Constitution or the first amendment should not be amended for the first time in 200 years, for either one of the proposals.

Focusing on the flag desecration amendment, it leads the Senator from Kentucky to ask the Senator from Utah if he understands what flag desecration is, because I have always had a little difficulty trying to figure out what that was. I remember I took my kids to the beach one time and saw lots of flags on T-shirts. I even saw one on the behind of some blue jeans. There are a variety of ways in which flags are displayed in this country that, it seems to me, might be arguably inappropriate. I wonder if the Senator from Utah thinks if this amendment were to become part of the Constitution, we would have a definitional problem here as well.

Mr. BENNETT. Mr. President, the Senator from Kentucky has raised a very interesting question because, as I understand it, the requirement for a definition would fail to the Congress under this amendment, which means it would be decided by statute. It is the intention of the Senator from Kentucky to solve the whole problem by statute from the beginning. The constitutional amendment would end up being subject to congressional definition. I don’t whether it would be right back where we are right now. We would have put this symbol in the Constitution and not have resolved any of the issues the Senator from Kentucky raises.

I think this is a very appropriate issue to be raised at this point. I can’t give you a definition of what constitutes desecration of the flag.

Mr. MCCONNELL. I had a marvelous friend who was a veteran of World War II. He lived up until a couple years ago. He lived in my hometown of Louisville, KY. His mission, toward the end of his life, was to make sure that flag etiquette was always followed. He had become an expert on the subject of flag etiquette, which is apparently quite complicated because it includes ways in which the flag can be displayed, in addition to what we are all familiar with as Boy Scouts, about folding the flag properly. He was constantly irritated and offended by ways in which well-meaning citizens, groups, and individuals used the flag that he felt were a violation of respect with which the flag should be treated in a category of behavior generally referred to as flag etiquette. Frankly, we were all somewhat confused in trying to do that properly.

I wonder if we would not, here in the Congress, be right back in the same soup, so to speak, as the Senator from Utah points out, in trying to determine what is and what isn’t proper respect for the flag.

Mr. BENNETT. Mr. President, the Senator from Kentucky reminds me of a similar individual in the State of Utah who constantly berates me every time I get the opportunity on what he considers to be a desecration of the flag, which is the addition of gold fringe to the edge of the flag. He insists that has a particular legal implication and, indeed, went to the point of insisting that if a Federal judge presides in a courtroom where the flag has gold fringe on its edge, the actions of that Federal judge are not legal and that the flag, to be properly displayed, must have no gold edge.

I noted on one of the rare times I have been in the Oval Office with President Clinton, the flag that hangs behind the President in the Oval Office under that definition would be illegitimate. Obviously, I don’t think it will go to that point. But I think the Senator from Kentucky has made a legitimate point as to who is going to argue which position with respect to what constitutes improper handling of the flag.

Mr. MCCONNELL. Mr. President, it could be argued that we might even need “Federal flag police” to go around protecting the flag. It would be right back where we are right now. We don’t need to amend the Constitution in order for the Congress to pass laws with respect to appropriate flag etiquette and apply penalties to those who violate the flag etiquette. I am not sure I would vote for those kinds of laws, but we have the authority to do that. I think the statute offered by the Senator from Kentucky, of which I have the privilege and honor of being a cosponsor, moves us in the sense of direction to that. If we wanted to do that, we could do it by statute. We could do it right now. We don’t need to amend the Constitution in order for the Congress to pass laws with respect to appropriate flag etiquette and apply penalties to those who violate the flag etiquette. I am not sure I would vote for those kinds of laws, but we have the authority to do that. I think the statute offers a serious point as to who is going to argue which position with respect to what constitutes improper handling of the flag.

Mr. BENNETT. There is no question that there would be pressures to move in the direction the Senator from Kentucky is talking about. I come back to my same observation, which is that if we wanted to do that, we could do it by statute. We could do it right now. We don’t need to amend the Constitution in order for the Congress to pass laws with respect to appropriate flag etiquette and apply penalties to those who violate the flag etiquette. I am not sure I would vote for those kinds of laws, but we have the authority to do that. I think the statute offered by the Senator from Kentucky, of which I have the privilege and honor of being a cosponsor, moves us in the sense of direction to that. If we wanted to do that, we could do it by statute. We could do it right now. We don’t need to amend the Constitution in order for the Congress to pass laws with respect to appropriate flag etiquette and apply penalties to those who violate the flag etiquette. I am not sure I would vote for those kinds of laws, but we have the authority to do that. I think the statute offers a serious point as to who is going to argue which position with respect to what constitutes improper handling of the flag.

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CONGRESSIONAL RECORD—SENATE
March 27, 2000

Mr. M. CONNELL. Mr. President, I thank the Senator for his important contributions. It reminds me of what we discussed this issue previously. It leads me to believe that the appropriate way to deal with someone who desecrates the flag might be a punch in the nose as opposed to the first amendment to the U.S. Constitution, which we have not changed—

and I think wisely—in the 200-year history of our country.

I thank the Senator from Utah.

I yield such time as he may desire to the distinguished Senator from North Dakota.

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

Mr. DORGAN. Mr. President, I thank the Senator from Kentucky and the Senate. This has always been a very difficult issue for me.

I voted against a constitutional amendment to prohibit flag desecration both as a Member of the House of Representatives and also previously as a Member of the Senate. But it has been very difficult, largely because I believe, as do most Americans, that desecrating our flag is repugnant. It is an act that none of us would find anything other than disgusting. Yet the question is not that; the question is, Shall we amend the Constitution of the United States?

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necessary and which is important without the resulting desire to change the framework of this democracy, the Constitution.

I greatly respect those who disagree with me, but I believe that over a long period of time—a decade, a half a century, a century—America will be better served if we resist the impulse to amend the Constitution in ways that will create unintended consequences.

Once again, that room in which George Washington, Madison, Mason, Franklin, and others wrote the Constitution of the United States with the advice and consent of Thomas Jefferson, who was serving in Europe at the time and contributed most to the Bill of Rights, contains a great sense of history for those of us who have been there, as well as an understanding that the framers for our democracy, the U.S. Constitution, is a very special and very precious document. It should be changed only in rare circumstances, and even then only when it is the last method available for achieving a result we deem imperative for this country.

I believe the statute that has been offered as an amendment is a statutory approach that will solve this issue in an appropriate way, and will at the same time preserve the Constitution as intended, especially with the Bill of Rights and most especially with the care that Congress and the American people have nurtured over nearly two centuries.

Mr. President, let me commend the Senator from Kentucky. I know this amendment has been offered before on the floor of the Senate. I heard the debate by the Senator from Kentucky and the Senator from Utah. I concur with that discussion and hope we can achieve a positive vote on this proposal when it is voted on.

I yield the floor.

The PRESIDING OFFICER (Mr. Grams). The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank the Senator from North Dakota for his remarks. I listened carefully to them and am glad to have him copersonor the amendment. I hope the amendment will prevail this time, as opposed to the constitutional amendment.

I thank my friend from North Dakota.

The PRESIDING OFFICER. Who yields time? The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, this is one of those issues that is very emotional. We have people on both sides who truly have the same goals. We believe alike—that those who burn the flag or desecrate the flag in any way are despicable people for whom we should have no sympathy.

I say this in light of remarks, that I certainly have the deepest respect for all of my colleagues who believe that we do not need a constitutional amendment, especially Senator McCONNELL, for whom I have the greatest respect.

I think we need to look very carefully at this issue. The Constitution has been amended. Actually, it has been amended 27 times—not 17—once with the first 10 amendments, of course, and 17 times later. When it was amended, it was amended to clarify, to make clear, that is why we have an amendment process. That is why the founders put it in there.

I do not think the constitutional Republic will tremble, shake, and fall because we decide to deal with an issue such as flag desecration with an amendment. That seems to be the gist of what we are hearing, perhaps in an overly legalistic argument that somehow the constitutional Republic will have acted irresponsibly to pass an amendment which would stop the desecration of the flag.

I am an original copersonor of the constitutional amendment introduced by Senator HATCH, S.J. Res. 14. I am proud to be a copersonor of that amendment.

The act of the desecration of the U.S. flag is an aggressive and a provocative act. It is also an act of violence against a symbol of America, our flag. Even more disturbing, it is an act of violence against our country's values and principles.

The Constitution guarantees freedom. There is no question about it. It guarantees freedom of speech. But it also seeks to ensure, in the words of the Preamble, "domestic tranquility." Many Americans have given their lives to protect this country as symbolized by that flag. My own family, as thousands of other families, endured the same thing. My dad died in World War II, and my family has that flag. It is a very important part of our home, as it is in Senator MCCONNELL's home when he mentioned his father.

I believe the flag deserves the constitutional protection because it is more than just a flag. It is more than just a symbol. I use the example of a $5 bill which I happen to have in my hand. If this is a mere symbol and has no other meaning, then I suppose I could ask millions of Americans to send me $5 bills and I will send them back plain pieces of paper because it is just paper. This is paper, therefore it is a symbol, and it doesn't have any meaning. So I can take all these pieces of paper and send them back to you in return for $5 bills.

If anybody does choose to do this, I will be happy to provide it to some charity. I am not looking for $5 bills to be mailed to me.

There is something beyond the meaning of just pieces of paper on this $5 bill, and there is something beyond the meaning of just a piece of cloth with the flag of the United States. Some people believe outlawing the desecration, which this amendment would authorize Congress to do, will lead some to the destruction of freedom. I disagree. Our Constitution was carefully crafted to protect our freedoms, not to diminish them. It also was crafted to promote responsibility. We are stepping on very dangerous ground when we allow reckless behavior such as flag desecration, whether burning, trampling, or whatever the desecration may be.

This Constitution has served the test of time very well. It has been amended on 27 occasions. Interestingly enough, the first ten amendments, the Bill of Rights, passed shortly after the Constitution itself was passed. Why? Because they wanted to clarify. They didn't want anybody to misunderstand that we needed to have certain basic freedoms such as the freedom of speech, freedom of religion; the second amendment, the right to keep and bear arms, and so forth.

Oftentimes in the debates on the floor of the Senate many of my colleagues pick and choose which amendments they choose to support and which they choose to ignore. It is all the Constitution.

Under our discussion, I don't think the Supreme Court has more power than the people. If we were to vote today or tomorrow or the next day on this constitutional amendment on flag desecration, it goes to the people. It goes to the State legislatures. We are not making a final judgment. This is a constitutional process. It was very carefully laid out by the founders so that amendments would be very difficult to pass. If the American people support Congress if it passes. Then we will have an amendment to the Constitution, No. 28. If they don't, it will not happen. All we are asking is the opportunity to let the people make the decision.

Amending the Constitution is serious, but a simple statute is not enough. We tried that and the Court struck down the statute.

A little bit of history on the legal history of flag burning is relevant. Over the years, Congress and the States have recognized the devotion our diverse people have for the flag and they have enacted statutes over the years that both promote respect for the flag and protect the flag from desecration.

In the Texas v. Johnson case in 1989, by 5-4 vote, referred to earlier in the debate, the Supreme Court overturned a conviction of Gregory Lee Johnson who desecrated an American flag. Johnson burned an American flag at the 1984 Republican National Convention. A fellow protester had taken a flag from a flagpole and had given the flag to Johnson. At Dallas City Hall, Johnson unfurled the flag, poured kerosene on it and burned it.

That is not speech, I say in all humbleness, candor, and with respect to my
There are limits on speech. It is simply incorrect to say there are no limits to free speech. There are limits to free speech. There is a constitutional prohibition against flag burning.

Johnson was convicted of desecration of a venerated object, in violation of section 42.09 of the Texas Penal Code which, among other things, made illegal the intentional or knowing desecration of a national flag. The Court held the government’s interest did not outweigh the interest of the flag burner. The act was not oral or written political speech; it was conduct. It was conduct, not speech. There is a difference.

Justice Rehnquist, for himself and Justices White and O'Connor, stated in dissent: For more than 200 years, the American flag has occupied a unique position as the symbol of our Nation, a uniqueness that justifies a governmental prohibition against flag burning in the way respondent Johnson did here.

The constitutional amendment would enable Congress to punish the next flag burner or the next flag desecrator. In 1989, Congress, with a fairly broad and neutral statute, the Flag Protection Act of 1989, with an exception for the disposal of worn or soiled flags as a response to the Johnson decision, Based on the new rule announced in Johnson, the Supreme Court struck down the statute by a 5–4 vote in United States v. Eichman in 1990. S.J. Res. 14 would restore the traditional balance to the Court’s first amendment interpretation.

That is all it does. Only a constitutional amendment can restore the traditional balance between a society’s interest and the actor’s interest concerning the flag. The first amendment prohibits abridgement of freedom of speech. There is always a balancing of society’s interest with the individual’s interest in expression.

A few examples have been used many times on the floor in debate. Here is a good example: Can you yell “fire” in a crowded theater? Could anyone yell something out now? You would be removed if you were in the galleries making a loud comment that disrupted the proceedings. You would be removed.

There are limits on speech. It is simply incorrect to say there are no limits to free speech. There are limits to free speech.

There is no constitutional right to engage in partisan political activity in the Congress. That is a direct action of Congress. There is no constitutional right to go out to the media and announce all the national secrets that we have access to as Senators, along with many individuals who work for the U.S. Government who have access to U.S. secrets. They don’t go out and hold press conferences, nor do they tell our enemies what those secrets are. There is not a constitutional right to disclose those secrets.

There is no constitutional right to defame or libel a person’s character. There is no constitutional right to promote NOVUS ORDO SECLORUM. That was upheld in Gertz v. Welch. There is no constitutional right to engage in partisan political activity in working for the Federal Government. There is no constitutional right to commandeer private activity.

The American flag has not been given that protection by the Supreme Court. Congress has a compelling interest in protecting the flag. Congress needs to preserve the values embodied by the flag—liberty, equality, freedom, and justice for all.

The flag enhances national unity and our bond to one another in our aspiration for national unity. If we read history about the fall of the Roman Empire, it is when Rome lost the glue that held it together, when they became too big, they became so splintered and there was no unity, no cohesion, that they lost their symbol of what the Roman Empire meant.

When we lose the symbol of what we are about, we will lose this country. The flag enhances national unity. It enhances the bond. Even if we are wrong, even if we do not need the amendment—and I do not make that case—even if perhaps Senator McConnell and others are correct that we do not need this amendment, so what? We err on the side of caution.

We survived an amendment on prohibition, and we survived an amendment to repeal prohibition. The Constitution and the constitutional Republic did not fall and die as a result of those amendments which were controversial, to say the least. So good amendments and bad amendments occur, and the Constitution survives because that is the way it is supposed to be.

Let’s err on the side of caution. Let’s err on the side of caution. It sends a good message to everyone—to young and old, those who fought and died, those who survived, and those young people in first, second, and third grade classes, and all through our schools all across America, that the flag is more than just a symbol. It represents that cohesion, that bond, that special thing that makes us Americans. We can carry it into battle. We can have it behind our Presiding Officer. We salute it every morning, as Senator McConnell said, before we start our proceedings. If we can salute it, we can protect it. What is wrong with that?

I repeat for emphasis, err on the side of caution. It is not going to cause the destruction of America because we reinforce something we believe in by amending the Constitution.

James Madison stated that desecration of the flag is “a dire invasion of sovereignty.”

Thomas Jefferson considered violation of the flag worthy of a “systematic and severe course of punishment.” S.J. Res. 14 would remove the Government sanction of flag desecration as an amendment to protect the flag. The Committee found in hearings that there have been between 40 and several hundred acts of flag desecration over the past decade. Our Supreme Court has granted the flag burner a sanction under the first amendment to engage in the conduct of burning an American flag.

Forty-nine State legislatures and most of the American people want an amendment to protect the American flag. All we are doing, if we can get the requisite number of votes, is to pass an amendment on to the people and the legislatures to make a final decision.

Our heritage, sovereignty, and values are uniquely represented by this flag.

The flag of the United States of America has long unified our countrymen during times of great strife, upheaval, and during the more common times of prosperity and pride. It inspired men and women to win our independence in the Revolutionary War. Over the years, it has represented to a people of all nations freedom and all the values that has made America the envy of the world.

I say to my colleagues, regardless of the technical legal aspect of this, as to whether or not it is legal, whether or not it is constitutional, whether it is necessary or not, what is the message we send to the world? They will not understand that the Congress of the United States, the Senate, refused to pass an amendment to protect the flag. It will be misperceived, in my view.

It is an inspiration. It has been praised in song and in verse. It has been honored with a day of its own—Flag Day—and its own code of etiquette on how to store it, how to salute it, and what to do with it. It has been given allegiance by our schoolchildren and given honor by the Supreme Court. The Supreme Court recognizes “love of both of common country and of State shall diminish in proportion as respect for the flag is weakened.” That was a Nebraska case in 1907.

How can one say it any better than that? Unfortunately, more recent court
decisions have struck down State and Federal statutes banning the desecration of Old Glory.

So we debate again. We have done this before. We are going to do it again. We debate a constitutional amendment. We should remember the important relationship over the years the American flag has had with American history, with American freedoms and, indeed, the American conscience.

On June 14, 1777, the Marine Committee of the Second Continental Congress adopted a resolution that read:

Resolved, that the flag of the United States be 13 stripes, alternate red and white, that the union be 13 stars, white in a blue field representing a new constellation.

Red for hardiness and courage; white for purity and innocence; and blue for vigilance, perseverance, and justice.

George Washington described the flag in much the same way:

We take the stars from heaven and the red from our mother country, separating it by white stripes, thus showing that we have separated from the old world. These white stripes shall go down to posterity representing liberty.

This new flag made one of its first appearances 2 months later at the Battle of Bennington. On August 16, 1777, the American soldiers faced the dreaded Hessian mercenaries. While the two forces clashed, American General John Stark rallied his troops by saying:

My men, yonder are the Hessians. They were bought for 7 pounds and 10 pence a man. Are you worth more? Prove it. Tonight the American flag, from yonder hill or Molly Stark sleeps a widow.

The brave Americans triumphed under their new flag at the Battle of Bennington, and the new stars and stripes floated from the hill which the Hessians once possessed.

It was this flag that liberty and freedom was advanced under the flag and, as we all know, it was most certainly not the last.

I can go on and on. Of course, we all know the story of the “Star-Spangled Banner.” How in 1814, Francis Scott Key, a Washington attorney, boarded a British warship in the Chesapeake Bay to negotiate the release of a prisoner taken when British forces burned the Capitol in August.

While aboard the ship, the British fleet turned its attention to Baltimore, and that is where Key witnessed the bombardment of Fort McHenry on September 13, 1814. It continued most of the day and night, until the British abandoned their failed attack and withdrew.

Shortly after dawn on the 14th, the morning fog parted and Key saw the flag had survived its night of 1,800 13-inch bombshells and rockets. Its “broad stripes and bright stars...” he said, were still “gloriously streaming.”

Although the forces at Fort McHenry were like sitting ducks under the merciless British assault, they withstood the volleys and emerged victorious once again under the besieged but still-standing American flag.

Key was inspired by this. It was not a piece of cloth that inspired Key to write these things. It was not a piece of cloth. It was more than that. It was a flag. There is a difference. It is the same reason the $5 bill is not a piece of paper. It has meaning. The flag has meaning.

In 1931, Congress made the “Star-Spangled Banner” the official national anthem of the United States. We owe our flag, once again under siege, constitutional protection. In May 1861, just before the Civil War that would tear our Nation apart, Henry Ward Beecher gave a speech on “The National Flag.” It is worth mentioning a few of the things he said in that 1861 speech, bearing in mind that our Nation was about to be torn asunder in a war that almost destroyed us:

A thoughtful mind, when it sees a nation’s flag, sees not the flag, but the nation itself. . . .

We see in our flag [has] streamed abroad men saw day break bursting on their eyes. For the American flag has been a symbol of Liberty, and men rejoiced in it. . . .

If one, then, asked me meaning of our flag, I say to him, it means just what Concord and Lexington meant, what Bunker Hill meant; it means the whole glorious Revolutionary War; it means all that the Declaration of Independence meant; it means all that the Constitution of our people, organizing for justice, for liberty, and for happiness, mean.

Whatever that meant, that is what the flag meant.

. . . our flag carries American ideas, American history and American feelings. . . .

Again, my colleagues, err on the side of caution. If you think we do not need the amendment, it, we will not rock the Republic that much if we would just make that statement with the amendment.

Henry Ward said:

Every color [of our flag] means liberty; every thread means liberty; every form of caution. If you think we do not need the amendment, it, we will not rock the Republic that much if we would just make that statement with the amendment.

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from the ship the George Washington as a "dire invasion of [American] sovereignty."

In 1807, Madison pronounced an act of flag defacement in the streets of Philadelphia to be a violation of law.

But that was not what they meant. They did not mean to suppress ideas or views or free the protection of the flag. They did not mean to suppress commerce, citizenship, and neutrality rights through the protection of the flag. They did not mean to suppress ideas or views or free speech. That was not what they were about. They just wanted to protect the Government's interests in protecting the sovereignty of the Nation as personified in the flag. Freedom of speech protects that, not conduct. There is a difference.

William Rehnquist said:

The uniquely deep awe and respect for our flag felt by virtually all of us are bundled under the rubric of "designated symbols" that the First Amendment prohibits the government from "establishing." But the government has not "established" this feeling; 200 years of history have done that. The government is simply recognizing as a fact the profound regard for the American flag created by that history when it enacts statutes prohibiting the disrespectful public burning of the flag.

We have seen the Supreme Court defy the "deep awe and respect" that the American people, through their elected representatives, have for that flag.

The Supreme Court further denied the American people any voice in protecting the integrity of the flag in the RAV v. City of St. Paul case in 1992. In that decision, the Court ruled it will no longer balance society's interest in protecting the flag felt by virtually all of us are bundled off an individual's interest in desecrating it.

The Court's recent decisions have led us down this path. In order to preserve the values embodied by our flag, in order to enhance national unity, in order to protect our national sovereignty, we, the people's representatives, have to take the first step here to amend the Constitution. It is going to be a slow and difficult process, as the Founding Fathers intended. They wanted it to be slow and difficult. It was not supposed to be easy.

We should have this debate. We should rise up and take each other on directly. We should have a vote, and we should be recorded. If it prevails with the 60 votes necessary, it will give forward for the people and the legislatures. It is a necessary process in order to remove the Government's seal of approval of flag burning and desecration.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally deducted from both sides.

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

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH of New Hampshire. 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. SMITH of New Hampshire. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from New Hampshire has 25 minutes remaining, and the Senator from Kentucky has 20 minutes remaining.

Mr. SMITH of New Hampshire. I thank the Chair and yield myself 15 minutes.

Turning to the substance of the McConnell amendment, I find that it fails to protect the flag or the people who revere it. This is a very narrow proposal. In order to be prosecuted under the statute Senator McConnell has proposed, one must: No. 1, intentionally destroy or damage the flag with an intent to incite or produce imminent violation or breach of the peace; No. 2, one must steal and intentionally destroy a flag belonging to the United States; or, No. 3, one must steal or intentionally destroy someone else's flag on Federal property.

Now if you come to the conclusion that I have—and I think we all have on both sides—that flag desecration is wrong, why limit the desecration to those instances I just cited? Why make it legal to burn a flag in front of a crowd that loves flag desecration or on television or at some safe distance and not make it illegal to burn a flag in front of people who would be upset? That is what is happening here.

Let me repeat that. Why make it legal to burn a flag in front of a crowd that loves flag desecration and yet make it illegal to burn a flag in front of people who would be upset? That is pretty much what we have here. Why make it illegal to burn a post office flag but not a flag belonging to the hospital across the street? Why make it illegal for a lone camper to burn a flag at a campfire in Yellowstone Park when it is legal to burn a flag before hundreds of children at a public school? To anybody who is interested in protecting the flag from desecration, how does this make sense? It is not common sense.

There are other problems with this statute as proposed. First, the Supreme Court is likely to hold that the amendment's attempt to prohibit flag burning on Federal property may breach the Constitution and be unconstitutional. In Texas v. Johnson, the State of Texas defended its flag desecration statute on the ground that it was necessary to prevent breaches of the peace, and the Court rejected the argument because there was no showing that a disturbance of the peace was a likely response to Johnson's conduct regardless of Johnson's intent. So in order to qualify for the breach of the peace exception under Brandenburg v. Ohio, the Court said the flag burning must make it illegal to incite or protecting imminent lawful action and is likely to incite or produce such action.

Since the McConnell amendment fails to require any showing that the destruction of a flag objectively is likely to incite or produce the breach of peace, the Court will strike it down as unconstitutional. This is a lot of legal gobbledygook, I might call it. This is what the lawyers like to do. This is more than a legal issue. Your speech cannot be suppressed because it might breach the peace, even if you believe you are breaching the peace. You must have both intent and
the objective likelihood that others nearby will be compelled to violent action by his conduct.

So in this regard, I note that the Court, in Johnson, found that the flag burning did not threaten to breach the peace, nor was there any finding that Johnson intended to breach the peace. The Court also found that no reasonable onlooker would have considered the flag burning to be an invitation to a riot. In other words, the Court held that flag burning did not constitute fighting words. As a result, the McConnell amendment would not even apply to the flag burning in Johnson.

Even if the McConnell statute satisfied the breach of peace exception to the first amendment, the other sections of the proposed statute wouldn’t. The Johnson and Eichman cases seem to require that any statute which would not punish flag burning based upon the real flag protection. The McConnell statute would not have punished Gregory Johnson’s notorious flag burning. When he took it down from that pole, burned it, and spat on it, he didn’t steal the flag from the United States; so he wouldn’t be punished. It was stolen from a bank building; therefore the statute would not apply. Johnson didn’t burn his stolen flag on Federal property; he burned it in front of city hall; therefore the bill would not apply. If the amendment would not punish Gregory Johnson, who would it punish? We need to be reasonable. We would look foolish to take this kind of legalistic approach rather than the substance of what Madison and Jefferson and Washington and so many others eloquently put many years ago when they wrote this Constitution.

Now, some say it is better than an amendment because they want to preserve the first amendment rights. But if we are going to punish flag desecration on Federal property during a political rally, if we are going to say that is not an infringement of free speech when the flag is stolen, then why does the first amendment protect desecrating the flag under the same circumstances?

The ownership of the flag is not relevant to the first amendment analysis. It is not the ownership of the flag that matters, it is the flag. It is what it symbolizes. It is the act that matters. I agree with the statute by my friend from Kentucky is perfectly consistent without allowing flag desecration on city or State property regardless of whose flag it is. Once you make it a Federal crime to burn a flag, you are reaching communicative conduct the Supreme Court says is constitutionally protected. If you are prepared to punish flag desecration based on the theft of the flag and the location of the desecration as consistent with the first amendment, you cannot logically argue that punishing the desecration of one’s own flag on that same property or other property is inconsistent with the first amendment.

I think any Senator who can vote for this statute, frankly, can vote for an amendment that would provide broad and meaningful protection of our flag. We need to stop splitting hairs here and understand what we are talking about, understand the incite act that we are talking about in the desecration of that flag and what it means to the fabric and fiber of our Nation. While the Federal connection to property may give you jurisdiction for a Federal statute, it simply does not change the first amendment analysis.

Why would anyone vote for an inefective statute? It is a weak way to say we don’t want an amendment. It is not a good alternative. I would almost prefer that you voted no on the basis of it being unconstitutional in your mind and that is what we will argue. But the adoption of the McConnell amendment will amount to the government’s unintended declaration of open season on all American flags. It says: Do what you want to the flag—whatever you want—but don’t start a riot, whatever you do. Don’t steal it from the government; steal it from a bank, and whatever you do, don’t burn it on government property. Otherwise, have a good time, burn away, desecrate away. Pick and choose where you want to burn, where you want to desecrate, and you will be fine.

Now, really, does that make sense as an alternative to the amendment? We can do better than that. The proposed constitutional amendment allows us to do better than that. By giving Congress the power to enact a sensible flag protection statute, the flag amendment will allow for meaningful flag protection that doesn’t make silly, legalistic distinctions. So let’s have the courage of our convictions to say, yes, we need the constitutional amendment because without it, the flag can be desecrated, and this will have a harmful effect on our country and on its fabric, if you will. Or say, no, we don’t need the amendment, it will have no impact, it doesn’t matter, and let it go at that. I urge my colleagues who support protection for the flag to vote no on the McConnell amendment and to vote yes on the constitutional amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER. (Ms. Collins). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. Smith of New Hampshire. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. Smith of New Hampshire. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5½ minutes remaining.

Mr. Smith of New Hampshire. Madam President, opponents of the amendment like to say that America is not facing an epidemic, that we have a great and extraordinary occasion justify the amendment, you cannot logically argue that punishing the desecration of one’s own flag on that same property or other property is inconsistent with the first amendment.

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our children. What do we say to those children who did that? What do we say to them who didn't do it, the vast majority of children, I might say? What do our children learn by hearing that our Government is powerless to punish those vandals? What do we want to teach our children about that incident? We can remain silent. It didn't happen on Government property, unless it was a VA cemetery. Maybe it was. So we couldn't punish them under the statute being proposed.

If we don't have a constitutional amendment, maybe we can figure out some other way to punish them. But it is more than punishment of the vandals that is at stake. It is a message to the rest of America why this is wrong and why it is not right to go in there and desecrate those flags and those graves.

Many people today—I am not alone—believe we live in a culture that suffers profoundly from a lack of common values, ideals, morals, and patriotism. Further, many people believe if it continues and it goes on and of itself, will destroy the constitutional Government that we have.

I will make this suggestion with all due respect. That kind of action and that kind of lack of statement or commitment to values will bring our country down a lot sooner than an amendment to the Constitution that prevents the desecration of our flag.

My colleagues, an amendment doesn't mean the end of our constitutional Republic. It reinforces. It says this Senate, this country, this Congress, the people of America, the legislatures, your parents, their parents, and people all across America say: You don't do that. It is wrong. It can mean that our country may not survive with this kind of disrespect.

The idea that everyone's viewpoint is just as good as anyone's can grow just a little bit too large. Is that free speech? Is that what we want to say in America, that it is free speech for two young people to go into a cemetery where Civil War veterans are buried, take the flags off their graves, desecrate the flags, and desecrate the tombstones, and say it is OK, free speech? I say that is conduct. I don't think it has one thing to do with speech. It is conduct, and it is conduct for which you should be held accountable.

The fact is, the founders of our country developed some ideas about government that all Americans believe are the best, that all Americans find some common ground upon the ideals for which this Nation was founded—common ground, cement, glue—to bring us together. This divides us in a way that goes right to the essence and to the heart of what our country stands for and what it is. Our flag, those flags, 87 of them on those graves, represent those ideals.

As much as our culture downplays our common beliefs—God knows we hear enough about it—everybody has a right to those beliefs; we don't have anything in common; do what you want; instant gratification; you want to go desecrate a cemetery, go ahead; it is just free speech.

As much as our culture downplays those beliefs, it is our duty as Americans—I am using the word "duty"—to protect those beliefs and our duty to protect the one symbol that unites us. If you don't think desecration of that flag threatens us, then maybe you had better take another look.

It is our responsibility to ensure the integrity of our country and to say that there is at least one principle that unites our society. We divide on every issue. You name it; we divide on it. There is somebody against everything we debate.

We need this amendment to say that our flag should be protected under the law. It is not enough to say if somebody walked up here now—a staff member—took that flag, threw it on the floor and began to deface it, stomp on it, in the name of free speech that is OK. It is not speech. I will say again. It is not speech. It is conduct, and conduct you should be responsible for and responsible to someone for doing it. If we can't say that, if it is a threat to our constitutional Republic to have an amendment that precludes that action, then I am not sure what we could have a constitution for that really matters.

We have survived amendments that weren't that great. The Constitution survived, the people survived, the American Government survived, because the Founders gave us the opportunity, provided that for us in the Constitution.

We see evidence of moral decay and a lack of standards all around. Our families are breaking down, our communities are divided, our leaders are not providing appropriate moral leadership for the American public. Everyone knows what I am talking about—moral leadership comes from the White House. You can shake it off, you can say it doesn't matter, there is no personal accountability, say whatever you want, hide it any way you want, take another position and say the law is OK, I don't care. The point is, it is wrong to desecrate the flag for the same reason it is wrong to overturn gravestones, it is wrong to be disrespectful to veterans, and it is wrong to leave your children alone and give them access to this kind of violence. Frankly, it is wrong for some in society to give them access to that violence.

Why don't we do something about it? No, we have a right, they say, to be free spirits. Blame somebody else. It is not our fault. It must be the Government's fault, the church's fault, our minister's fault, the Senator's fault, the country's fault, the culture's fault, not mine. It couldn't possibly be my fault; I didn't do anything.

Do you see what is happening to this country? This is just a perfect example of it. It is one symbol of what is wrong with America.

From the 1800s and the 1900s, wave after wave of immigrants came to this country; they built this country. It was the glue. They saw the Statue of Liberty that is a part of the essence of America. That flag is the essence of America. We ought to pass a constitutional amendment so it will not be desecrated.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.
Mr. MCCONNELL. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. MCCONNELL. I yield whatever time the Senator from North Dakota may desire.

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

Mr. CONRAD. I thank the Chair. I thank Senator McConnell.

Madam President, I rise today to support the McConnell-Bennett-Bergan-Conrad effort to pass a statute to protect the flag, rather than to amend the Constitution of the United States for that purpose.

It seems to me that anybody who advances an amendment to the Constitution has to clear a very high threshold. I personally believe the Constitution of the United States is one of the greatest documents in human history. It is not to be amended lightly. It is certainly not to be amended when there are other ways of addressing a problem.

I believe in this circumstance the issue is really quite clear. Flag burning and flag desecration are unacceptable to me and I think unacceptable to a majority of Americans, certainly unacceptable to the people of the State that I represent. But the first answer cannot and should not be to amend the Constitution of the United States.

In more than 10,000 amendments to the Constitution have been proposed. Only 27 have been approved. Since I have been in the Senate, more than 850 constitutional amendments have been offered. Thank goodness we have not adopted them. Many of them would have made that document worse. Many of them would have taken positions that are really things that ought to be done by statute.

The Constitution is a framework. It does not deal with specifics. It deals with the larger framework of how this Government should operate. Individual laws, individual statutes are meant to deal with the specific problems that we encounter as a society within the framework provided by the Constitution. Some would have us change that framework provided by the Constitution.

I am amendments. I believe that would be a desecration of the American Law Division of the Library of Congress, which houses the Congressional Research Service, telling us this statute authored by Senator McConnell would be upheld as constitutional. That is the best advice
we have available to us as Members of Congress. They are saying to us this statute should be upheld.

Why would everyone go out and amend the Constitution when we have a statute that our own legal advisors inform us would be upheld as Constitutional. Why would we do that? It makes no sense to me. Not only does it make no sense to me, it makes no sense to veterans organizations. I ask unanimous consent that resolutions of support by veterans organizations in the State of North Dakota be printed in the Record at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CONRAD. Madam President, these resolutions are in support of the Flag Protection Act of 1999 by AMVETS after, as he describes by these AMVETS Ladies Auxiliary of North Dakota, and by the North Dakota State Council of the Vietnam Veterans of America. All of these veterans organizations, some of the finest in my State, have contacted me and supports the position that I am taking, that it is not necessary to amend the Constitution of the United States.

I think he is exactly right. I would just conclude by saying, not only do veterans organizations back home support the position I am taking, but many who are in the American Legion have contacted me and told me they support the position that I am taking. Final Colin Powell, former Chairman of the Joint Chiefs of Staff, the man who led us in Desert Storm, a man for whom I have profound respect, saying to us, yes, it is abhorrent to desecrate the flag, yes, it is abhorrent to burn the flag, but that flag is going to survive longer after, as he describes by these miscreants who desecrate the flag are long gone. Long after they are gone, that flag is still going to be flying proudly over this great Nation.

One of the reasons this is a great Nation is because of the Constitution of the United States. What a brilliant document. I doubt very much anything we are going to be doing in the next 2 days would improve upon that Constitution that is the organic law for our country.

I urge my colleagues to take a look—at the work Senator McConnell has done and that the four of us, on a bipartisan basis, are offering our colleagues as an alternative to taking the very drastic step of amending the Constitution of the United States.

I hope my colleagues will support this approach.

I commend my colleagues who have joined in offering this—with a special thanks to Senator McConnell, who has drafted this approach—Senator Bennett, and Senator Dorgan.

I believe this is the wiser course. It is the right course. It is one that will stand the test of time.

I thank the Chair yield the floor.

EXHIBIT 1

AMVETS LADIES AUXILIARY, DEPARTMENT OF NORTH DAKOTA, RESOLUTION TO SUPPORT THE “FLAG PROTECTION ACT OF 1999”

Whereas: the delegates of the 15th Annual Convention of the AMVETS Ladies Auxiliary, Department of North Dakota, assembled in Minot on this 15th day of May, 1999, desire to support Senator Dorgan and Senator Conrad on the Flag Protection Act of 1999 which they are co-sponsoring, therefore be it

Resolved: We support the “Flag Protection Act of 1999” for the protection of the flag, free speech, and other purposes, to ensure our symbol of national pride and freedom be protected, that the embodiment of our democracy and unity be preserved, especially since our veterans fought for this freedom, it further be

Resolved: That a copy of this courtesy resolution be spread upon the records of this annual convention and a copy be presented to the above mentioned

AMANDA L. LEKANDER, President

VICKIE TRIMMER, Secretary

VIETNAM VETERANS OF AMERICA,
NORTH DAKOTA STATE COUNCIL,

Hon. KENT CONRAD,
U.S. Senator, Hart Office Building, Washington, DC.

DEAR SENATOR CONRAD:

On behalf of the North Dakota State Council of Vietnam Veterans of America, it is my honor to inform you that at our quarterly meeting on May 8, 1999 in Bismarck, the following action was taken regarding the Flag Protection Act of 1999, which you are cosponsoring.

“Bob Hanson moved that the North Dakota State Council of the Vietnam Veterans of America support enactment of legislation by Congress to protect the nation’s flag, such as that cosponsored by Senators Byron Dorgan and Kent Conrad and that a copy of this resolution be forwarded to our state’s entire Congressional delegation. Seconded by Richard Stark. Approved unanimously.”

Thank you for continual support of veterans and we wish you success in your endeavors in this matter.

Sincerely,

BOB HANSON,
State Secretary, ND VVA

RESOLUTION NO. 991—A RESOLUTION TO SUPPORT THE “FLAG PROTECTION ACT OF 1999”

Whereas, a Constitutional amendment to protect the desecration of the American flag has been before Congress for several years and has failed to garner the votes for passage, and

Whereas, those opposed to the Constitutional amendment believe that a statute can effectively provide protection and be upheld by the Supreme Court, and

Whereas, Senator Mitch McConnell of Kentucky has introduced a statute, “The Flag Protection Act of 1999”, cosponsored by Senators Conrad of North Dakota, Senator Byron Dorgan of North Dakota, and Senator Bennett of Utah, and have been assured by the Congressional Research Service and constitutional scholars that it would be upheld by the courts, and

Whereas, the AMVETS of North Dakota have consistently supported a statutory remedy over a Constitutional amendment at our annual conventions, now therefore be it

Resolved, that the AMVETS of North Dakota express appreciation to Senators McConnell, Conrad, Dorgan and Bennett and further supports the Flag Protection Act of 1999 and urge the National Department to also support the Flag Protection Act of 1999.

Submitted for consideration at the Department Convention by the Department Commander.

RANDALL A. LEKANDER, National Commander.

Adopted as amended by AMVETS Department of North Dakota in convention at Minot this 16th day of May, 1999.

Mr. REED. Mr. President, I stand in opposition to this amendment. I, as a graduate of the United States Military Academy and a former officer in the Army, I view the American flag with a special reverence borne by experience. I am deeply offended when people burn or otherwise abuse this precious national symbol, and I believe that we should teach young people to respect the flag.

I also feel, however, that the values and beliefs that the American flag represents are more important than the clot from which the symbol is made. Prominent among these beliefs are the right to voice views that are unpopular and the right to protest. It is these fundamental values, reflected in our Constitution, that have distinguished our Nation for more than 200 years. It is these beliefs that give our flag its great symbolic power.

Flag burning is despicable. However, the issue before us is whether our great charter document, the Constitution, should be amended so that the Federal Government can prosecute the handful of Americans who show contempt for the flag. To quote James Madison, is this a “great and extraordinary occasion” justifying the use of a Constitutional amendment? I would argue no, this is not such an occasion. This is an answer in search of a problem. According to Professor Robert Justin Goldstein, a noted author on this topic, there have been only 200 reports of flag burning occurring the entire history of our country—that is less than one a year. There is no epidemic of flag burnings plaguing our nation.

Others have said that flag burning is representative of a general decay of American values and patriotism, and something needs to be done about it before it is too late. I would argue the way to encourage patriotism is...
through encouraging civic involvement, not constitutional amendments. It almost goes without saying that people who are proud of their country will be proud of their flag.

I am still moved by the statement made by James WARNER, a decorated Marine flyer who was a prisoner of the North Vietnamese from 1967 to 1973, about flag burning:

I remember one interrogation where I was shown a photograph of some Americans protesting the war by burning a flag. "There," the officer said, "People in your country protest against your cause. That proves that you are wrong." "No," I said, "that proves that I am right. In my country we are not afraid of freedom, even if if means that people disagree with us."

And I think that is the essence of this debate for me. We live in a democracy, not a dictatorship. The flag symbolizes a political system that allows its people, through their actions and words, to express what they think and feel, even when the government or a vast majority of others disagree with them. As an amendment because I believe that while attempting to preserve the symbol of the freedoms we enjoy in this country, it actually would harm the substance of these freedoms.

Finally, this amendment to the Constitution is technically problematic. The language of the amendment is vague and fails to offer a clear statement of just what conduct the supporters of the amendment propose to prohibit, or to advise the American people of the actions for which they may be imprisoned. There is no definition of what a "flag" is for purposes of this amendment, or any consensus regarding the meaning of "desecration." This leaves the Supreme Court to clarify these meanings, the same court that supporters believe erred in protecting flag burning as freedom of speech's first place.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. I thank the distinguished Senator from North Dakota for his outstanding remarks in support of the effort we have, on a bipartisan basis, put together to try to deal with the flag desecration problem through statute rather than by amending the first amendment to the United States Constitution for the first time in its 200-year history. It has been a pleasure working with the distinguished Senator from North Dakota. I thank him for his support.

We hope all of our colleagues will take a look at a different approach to this problem when the vote occurs tomorrow afternoon.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. McCONNELL. I yield it back.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I believe we are now about to move to the Hollings amendment. Is that the next agenda item?

The PRESIDING OFFICER. The Senator from West Virginia, Mr. BYRD, still controls 30 minutes of time which, under the previous order, was to occur prior to moving to the Hollings amendment.

Mr. SESSIONS. Are there 2 hours equally divided on the Hollings amendment?

Mr. HOLLINGS. Madam President, I understand that the Senator from West Virginia is not going to use that 30 minutes. So I am authorized to yield back that time. I yield back Senator BYRD's 30 minutes.

The PRESIDING OFFICER. All time has been yielded back.

Under the previous order, the Senator from South Carolina is to be recognized to offer a first-degree amendment. Under the previous order, there shall be 4 hours of debate on the amendment, equally divided, with one of the 4 hours to be under the control of the Senator from Arizona, Mr. MCCAIN.

Mr. SESSIONS. I am prepared to yield the floor to the Senator from South Carolina and ask unanimous consent that I be allowed to have 30 minutes on this subject.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Thirty minutes when?

Mr. SESSIONS. Whenever.

The PRESIDING OFFICER. Out of the 2 hours that has been set aside?

Mr. SESSIONS. In the next hour.

Mr. HOLLINGS. No objection.

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

The Senator from South Carolina.

AMENDMENT NO. 2890
(Purpose: To propose an amendment to the Constitution that the United States relating to contributions and expenditures intended to affect elections)

Mr. HOLLINGS. Madam President, has the amendment been reported?

The PRESIDING OFFICER. The amendment isn't on the desk.

Mr. HOLLINGS. I ask that the clerk report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. SPECTER, and Mr. REID, proposes an amendment numbered 2890.

Mr. HOLLINGS. 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:

On page 2, line 4, strike beginning with "article" through and insert the following: "articles are proposed as amendments to the Constitution of the United States, either or both of which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within 7 years after the date of submission for ratification:"

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

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

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

"ARTICLE—"
"Mr. HOLLINGS. Madam President, this amendment is offered on behalf of myself, the distinguished Senator from Pennsylvania, Mr. SPECTER, and the distinguished Senator from Nevada, Mr. REID.

Let me go right to the heart of some comments just made because I want to emphasize what the distinguished Senator from North Dakota said.

One, with respect to the matter of actually passing a statute whereby the statute would suffice, I only refer specifically, because I have been reading it at length, to the decision of the U.S. Supreme Court in Nixon v. Shrink, that for nearly a half century the Court has extended first amendment protection to a multitude of forms of speech, such as making false inflammatory statements, filing lawsuits, dancing nude, exhibiting drive-in movies with nudity, burning flags, and wearing military uniforms. It goes on to even more examples.

That is why this Senator would not vote for the statute. I think that is dancing around the fire and a putoff. On the contrary, I intend to support the constitutional amendment. But I do agree with the observation of the distinguished Senator from North Dakota that the Constitution should not be amended lightly, and, as the Senator stated, not amended when there are other ways.

There is a definite difference between the matter of burning the flag—there is really no threat to the Republic. There is no threat to our democracy. There is no corruption. I do not like it; others do not like it. I hope we can pass the amendment.

But there is basis for the concern that a constitutional amendment is not in order because there is no threat to the Republic. We have seen and, unfortunately, been hardened in a sense to losing the flag as a battle flag. I happen to be like the man: Convinced against his will is of the same opinion still. They can keep on saying that it is constitutional. I do not believe it.
I think an amendment to the Constitution is necessary. But only look around us. Where is everybody? Our raising money. The Senator from South Carolina is not charging that an individual is bribed. I know of no bribes. That is not my argument.

My argument and position is that this Congress, this process, and the Government have been corrupted by the money chase. We all know the amount of money. But all you have to do is have been around here for 30-some years and you get the feel, very definitely, that the money chase has taken over and we are thoroughly corrupted. I say that because here it is Monday. It is really a wash day. There are no votes. There is nobody here to hear you. This is no deliberative body. That is really a nasty joke on all of us because we do not deliberate anymore. I remember over 30 years ago when we would come in on Monday morning and work all day, have votes at 9 o'clock on Monday morning, go through Tuesday, Wednesday, Thursday, Friday, and hope we get through by 5 o'clock Friday and take Saturday and Sunday off and go back to work on Monday. But we start the week here with no votes, nobody around, no deliberation, no exchange of ideas, no legislation, just a sort of fill-in so you can give those who are concerned their time at bat, limited as it is, because it is only half time. Nobody is here to listen, so you can learn the fallacy in your arguments or the substance thereof. But there is no really good exchange out here by the Members themselves. Monday is gone, and Tuesday morning follows suit because we have to wait for everybody to get back from their Monday evening fundraisers. Then we have Tuesday afternoon, Wednesday, Thursday, and Friday is gone.

If you don’t think it is corrupted, go up and ask the majority leader, if you please, to take up a bill. “Oh”, he says, “wait a minute, that might take 3 or 4 days.” I’m given, that you are not going to call a bill that is going to take 3 or 4 days of consideration and debate by colleagues. It is not going to be called. Nothing is called unless the jury is fixed.

Why haven’t we taken up the budget? Because they haven’t been able to fix the vote of the Senator from Texas. They fixed all the others. They got them in line. I don’t know what their budget is. There has been give and take among the members on the Budget Committee on the Republican side, but we on the Democratic side have yet to see a budget, even though it is the end of March. We are supposed to have had the markup for several weeks and be ready to report it out by this weekend. We don’t do that anymore. We have to wait for your boots if we come together tomorrow afternoon and Thursday, they will use Thursday night and the threat of, “wait a minute, you will have to work on Friday, so hurry up, let’s vote until 1 o’clock in the morning,” whatever it is, because none of your amendments is going to go. So it is going to be your vote.

That is the most deliberative process. That is the corruption the money chase has gotten us into. You can’t consider anything here. Come Tuesday, they say, “well, we will have a caucus.” In the main, that is about money and how we are going to collect it, and how we will dock each other so many thousands of dollars, and who has been to meetings, and everything else of that kind. Otherwise, come evening, “hurry up and let’s adjourn early because I have a fundraiser Tuesday evening.” Or, on Wednesday we have a window. “Can we make sure; I have to go all the way downtown at lunchtime, so let’s not have any real conduct of the Senate of course, I come to think, because I want a window so we can go down and have that fundraiser; or wait until the evening.” The same thing occurs on Thursday.

By the way, there is a special Wednesday afternoon set up where we are supposed to go over to our campaign committees and get on the phone for hours in the afternoon. To do what? To call for money. I thought when we got elected, the campaign was over and we were going to work for the people. Instead, we go to work for ourselves. The entire process has been corrupted. That is why we need a constitutional amendment.

No, not likely. We have tried for 25 years to get around Buckley v. Valeo. We got a little squeak from Justice Stevens in the Nixon v. Shrink decision. He said: Money is property, not speech. But he was only one. The rest of the Court, in other words, had every opportunity to consider it being property and not speech, and they reiterated Nixon v. Shrink, that money is speech. My gracious, if you read that dissenting opinion with Scalia and the other two Justices, they read it to go with removing the limits on contributions and not just campaign expenditures.

Just coming on the floor, they called my staff and said: Why in the world would you want to amend the Constitution here but not with the flag? Well, I would instead want to amend the Constitution with the flag. But those who have some concern about the flag amendment to the Constitution need not hesitate with respect to this particular amendment. Otherwise, they have been living in a cocoon somewhere, or they have been in China during the last campaign, because all you have to do is look at the primaries and see that the one thing, whether it was Independent, Democratic, Republican or any other kind of vote, that they were trying to clean up this system.

Senator Gore, Vice President Gore, got the message. He said: The first thing I will do as President of the United States is introduce McCain-Feingold and do away with soft money. Governor George W. Bush said that was a terrible thing. I read that in the news. But I remembered back to January 23, in his interview with George Will, when Governor Bush said soft money, both corporate and labor, should be banned. I agree. But I will have to agree with the distinguished Senator from Kentucky that it is patently unconstitutional according to the Court. All we are trying to do is constitutionalize McCain-Feingold or any and every other idea you want, whether you want to publicly finance, whether you want to give free TV time, whether you want to limit, whether you want to not limit, whether you want to increase the limit—whatever you want to do. Don’t say I have an argument on this one because this only constitutionalizes your particular idea. Let me read exactly what it says:

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

We have had this up for over 10 years, Senator Specter and myself. I have had it up for over 20 years. I can tell you, the States in unanimity, the Governors’ conference and all, came and said: Please put us in. We have the same problem, not just for Federal office but for State office. It is costing $1 million to get elected to the city council. It has corrupted the entire process over the land, and everybody knows it.

Section 2—this is why we added it—

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

Of course, Congress is empowered to implement and enforce the article by appropriate legislation.

That is a very simple amendment. You can bet your boots it is far more important at this particular hour of our history. The 27th amendment has to do with our pay. Well, it is certainly more important than that. But the 22nd amendment also has to do with his pay because if he votes that way, they are going to jump all over him at the next election. So they didn’t even need this. This was just puffing and blowing and demonstrating and flagellating. That is all we have been doing up here this year: We figured as long as we could put the people off and sneak back in, we could get the money to buy the time to buy the office.

The 22nd amendment. Presidential term limits. More important than that. The 23rd amendment. D.C. electoral votes. This is more important—this particular corruption to be corrected. The elimination of the poll tax, the
24th amendment, and the 25th amendment, Presidential succession. The 24th amendment, giving 18-year-olds the right to vote, was taken away by the vote of all the people, not just the 18-year-olds.

I ask unanimous consent that this short article 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 Post, Mar. 19, 2000]

**Pander Gap**

(By Richard Morin)

This may be really hard to believe: Neither Congress nor the President panders to public opinion. And they don't craft policy to match the latest poll numbers, either. You scoff. But those are the claims of two political scientists who have documented the gap between what Americans say they want and what the politicians do. Part of the political scientists' research found a dramatic decline of political responsiveness to the wishes and preferences of the public on major policy decisions in at least the past 35 years.

The 26th Amendment, which allowed 18-year-olds to vote, was supposed to run a race in South Carolina on about $3 million at the most. I had to spend $5.5 million. Since the South has gone Republican, it made it more difficult. With two Republican Senators from Alabama, two from Mississippi, two from Texas, two from Pennsylvania, it seems everywhere I look, I've got Republicans buzzing around me.

I am not critical because I got a lot of good Republican votes. I am grateful for the Republicans who did vote for me. But, in essence, it was tough to get those contributions because they didn't want their names to appear, and then go to the club and have to explain why in the world they contributed to that candidate. They were not ready to stand up and give me the money, but they could not. So I had to travel the land and tell my story. I was lucky. They gave me a rather hard-working fellow as an opponent who was all over the place. Didn't know what he was talking about, about the polls and everything, and trying to take a fellow who had been in office almost 50 years, and being arrogant about it. You can't be arrogant and get elected seven times to the Senate. I can tell you that. You respond to the people. I am not amending the Constitution lightly. I will yield in a moment to give my colleague from Alabama time. I am not amending the Constitution lightly. I will yield in a moment to give my colleague from Alabama time. I am not amending the Constitution lightly. I will yield in a moment to give my colleague from Alabama time.

Jacobs said he's not suggesting that politicians should march in lock step with the polls. "There are times, like Nixon's opening to China, when politicians should disregard public opinion. But it should be part of a larger discussion about why the public will is being ignored. These should be the exceptions."

Mr. HOLLINGS. This is entitled "Pander Gap." We are not pandering to the people. We have taken away the votes of all the people, not just the 18-year-olds. They said figure out this so-called polling. They say we followed the polls. I am quoting this part of it:

... the surveys are used to figure out how to sell policies that have already been constructed (much as market researchers convene focus groups and sponsor surveys to find new ways to get you to buy soap).

Rather than hewing to the demands of voters, and I happen to do "the extreme ideological elements of their parties, to their contributors, and to special interests."

In short, money, money, money, millions and millions. The year before last I was supposed to run a race in South Carolina on about $3 million at the most. I had to spend $5.5 million. Since the South has gone Republican, it made it more difficult. With two Republican Senators from Alabama, two from Mississippi, two from Texas, two from Pennsylvania, it seems everywhere I look, I've got Republicans buzzing around me.

I am not critical because I got a lot of good Republican votes. I am grateful for the Republicans who did vote for me. But, in essence, it was tough to get those contributions because they didn't want their names to appear, and then go to the club and have to explain why in the world they contributed to that candidate. They were not ready to stand up and give me the money, but they could not. So I had to travel the land and tell my story. I was lucky. They gave me a rather hard-working fellow as an opponent who was all over the place. Didn't know what he was talking about, about the polls and everything, and trying to take a fellow who had been in office almost 50 years, and being arrogant about it. You can't be arrogant and get elected seven times to the Senate. I can tell you that. You respond to the people. I am not amending the Constitution lightly. I will yield in a moment to give my colleague from Alabama time. I am not amending the Constitution lightly. I will yield in a moment to give my colleague from Alabama time. I am not amending the Constitution lightly. I will yield in a moment to give my colleague from Alabama time.
If I were going to run for the Presidency, I would run on one particular message: Let the people of America know here and now this office is not for sale. That ought to be a fundamental Americanism—that you can't buy the office.

Now, we have several in the body who had millions in their campaigns and have gotten to the Senate. I will say in the same breath, I look at them and their service, and they would have done the same without the millions, but they did spend millions to get here. That is the kind of body we are turning it into more and more each year. You can't consider anything. You can't debate anything. You can't take time to speak to your colleagues. It is a veritable money chase. That is exactly why we are not doing anything this year. It is the year 2000, the year that the U.S. Congress squats and does nothing. There is an old political axiom: When in doubt, do nothing, and stay in doubt all the time. That reflects the mood of people. That is what we are motivated by on this particular afternoon.

I am going into the details of the amendment again out of necessity and will emphasize why we need a constitutional amendment, because we have tried it every other way. The Court has found, more and more, free speech implications in any and all legislation. Unless we can amend the Constitution to extract this cancer and this corruption from the body politic, we are goners. I can tell you that democracy is gone.

I yield the floor. I reserve the remainder of my time.

Mr. SESSIONS. Madam President. I always enjoy the remarks of the Senator from South Carolina. I am glad he doesn't speak with an accent. I can understand him better than most around this body. He is a straight shooter and a skilled lawyer who understands what the legal system is about and what we are doing in the Senate. I respect that. I respect his conclusion, which I believe is legally sound, that most of the campaign proposals which have been proposed in recent years run afoul of the Constitution, according to a majority of the U.S. Supreme Court. That is a fact. I believe that is a good fact.

Some would say: Well, you want to limit free speech when you want to stop burning the flag and you want to prohibit that and that is free speech. The Supreme Court, by a 5-4 majority, held that the act of burning a flag is free speech. I don't agree with that. In 1971, the Supreme Court didn't agree with that. For over 200 years they didn't agree with that. Over 40 States have laws against it.

When it passed this time recently, it was a 5-4 majority. But in my view, the two clauses of this amendment. We are saying incumbent politicians in this body ought to be seeking to encourage laws that would prohibit people from gathering together and raising funds and speaking out. The Senator said we want a constitutional amendment because it will allow any other thing you want to do, whatever you said it will allow that in terms of campaign finance. That is a scary thing to me—whatever we want.

What do incumbents want? They want many times to keep down debate. They want to keep from the people the errors they may have made, or the acts they have carried out with which the people do not agree. Many times the only way we can ever know what the truth is, is for people who care about issues to raise issues to raise money and speak out against it.

I feel very strongly about this. I think this is a major event. If the flag amendment is a 1 on a constitutional scale, this Hollings amendment is a 9. One of the most fundamental things in the history of this country I know of where we have submitted a constitutional amendment that does not increase our freedom, our liberties, and our ability to act and speak as we choose. It will be the first time I know of where we are proposing a constitutional amendment that would clearly dampen, reduce, and control the free rights of American citizens to speak out on issues they care deeply about.

The Cato Foundation, a conservative think tank, and the ACLU, a liberal group, are horrified at the very thought of this.

This is basic constitutional law. We are talking about restricting the right of people to run advertisements during a campaign season to say why they care about issues. What more is free speech about?

Justice Rehnquist, in talking about the flag burning, said, “At best, burning a flag is a grunt or a roar.” It is not really speech at all, if you consider it some sort of expression, which I think is a stretch. But even then, you consider it inarticulate speech. That is not of great value compared to the unifying symbol of the flag.

But when you talk about taking away the right of American citizens to run ads on television, to buy newspapers, to print handbills and pass them out, and to say they can’t do that; why? Well, you just can’t do it during an election cycle. When do you want to speak out? What good is it if you do not want to do it during an election cycle?

I do not want to use all the time I have. We have two excellent scholars who care deeply about this issue who wanted to speak before I got unanimous consent. I don't want to take their time.

I will just say this before I yield the floor and ask that my time be given back to them.
We do not need to be retreating from freedom. We do not need to be retreating from free debate. We do not need to be adopting a constitutional amendment that will allow our children and grandchildren not to rise up, raise money, and speak out and condemn a group of incumbents who they believe are not doing the right thing in America. Sometimes that is the only way you can get the message out.

Frankly, I am not one of those who believes our national news media is fair. I think it is ludicrous to expect and to suggest they are fair and objective. They are clearly, in my view, biased toward big government and liberal activity.

I am not going to say I am going to subject my campaigns to constant reinterpretation of what I do to some media outlet that may get worse than it is today. Apparently, they have unlimited rights to run their programs every day and call it “news” if they want to. Somebody who has a different view of money, but takes time on their program, and rebut that?

This is fundamental stuff. This is right to the core of what the first amendment was all about. The first amendment is about intelligent debate, argument, concern over policy issues—not whether or not you have a “grant” or a “roar” in burning a flag. I don’t believe that was ever intended to be covered by the Constitution.

If so, we don’t need to go in this direction. It is one of the most adverse steps we could take. It would be an error of colossal proportions if this Senate were to vote to amend the great charter of freedom, the first amendment to the Constitution of the United States, out of some vain, hopeless effort that we are going to suppress the right of free American citizens to raise money and speak out on what they believe in.

I am prepared to vote on reasonable controls on campaign funding as long as it can pass constitutional muster. I believe fundamentally our best protection is to allow people to speak; if people give money, disclose how much money they give, and let everybody know promptly and immediately. If the public knows where the money is coming from, they may judge the value of the ads.

In my Republican primary 3 years ago for the Senate, I had eight opponents. They spent $5 million among them. I spent $1 million. Two of my opponents spent more than $1 million of their own money. I had to raise some $900,000. I worked hard, and I won the race. John Connolly, mentioned earlier, spent more money per vote than any man, and he got clobbered. Other senatorial candidates have spent tens of millions of dollars and have been clobbered in races.

I do not believe money always tells the tale. It was difficult for me when I faced the guy spending $1.5 million of his own money on a Republican primary in Alabama, but that is the way it is. I believe that person he cannot spend that money and express what he believes and cares about in that election about why he would be an outstanding candidate.

Many gave to me because they believed I could be an effective voice for their concerns. That is what America is all about. I don’t believe it corrupts politicians. I believe it sucks them into the system and makes them be participants. They speak, run ads, and attack, sometimes, unfairly. If we can figure out a way to do a better job of disclosing how this money is spent and from whom it comes, I think that will help the public.

I appreciate the leadership of Senators Boren and McConnell, who are scholars on these issues. I believe the Senate should do well to listen to them. I agree with the Senator from South Carolina, this is really important. More Senators need to be paying attention to this crucial issue in our Nation’s history.

I yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. I thank the Senator from Alabama, who has faithfully participated in the campaign finance debates in the years he has been here, always very skilfully. I am sure some of the things I will say will be repetitious because he was right on the mark in his observations about the Hollings amendment.

It is important to note at the beginning of the debate, the last time we had a vote on the Hollings amendment was March 12th. And I had voted for the Hollings amendment, an effort to amend the first amendment for the first time in the 200-year history of our country, restricting avenues of political speech. Only 38 of the 100 Senators believe it necessary, no matter what our views on the various campaign finance proposals before the Senate, to carve a chunk out of the first amendment to give the Government this kind of truly draconian power to control everybody’s speech.

I know Senator F. P. of McCain-Felngold fame is also going to oppose this amendment. I note that the Washington Post, with which I have essentially never been aligned with on a campaign finance issue, also opposes this amendment.

With due respect to the Senator from South Carolina, he has framed the issue correctly by pointing out that in order to do what many of the so-called reformers have tried to do, you do need to amend the first amendment. Of course, that is a terrible idea, I respectfully suggest.

The campaign finance debate is all about constitutional freedom. Soft money, hard money, issue advocacy, express advocacy, PACs, independent expenditures, bundling, and the other terms of art in the campaign finance debate are euphemisms for freedoms of speech and association protections under the first amendment to our Constitution, freedoms belonging to citizens, candidates, and parties. It is no more complicated than that.

The measure before the Senate, the Hollings constitutional amendment to empower the Federal and 50 State governments to restrict all contributions and expenditures “by, in support of, or in opposition to Federal and State candidates,” illustrates this simple fact. Beautifully and succinctly, The Hollings amendment is a blunt instrument. Where a statutory approach such as a Shays-Meehan or McCain-Felngold and their ilk slices and dices at this freedom—a cut here, an evasion there—the Hollings amendment reaches out and rips the heart right out of the first amendment.

If the Hollings amendment were to be our way to getting rid of the first amendment protection for everyone except pornographers. But I rather enjoy this debate. No pretense, no artifice, no question about it: If you believe that the Government, Federal and State, ought to have the unpowered to restrict all contributions and spending “by, in support of, or in opposition to Federal and State candidates,” then, by all means, vote for the Hollings amendment. If you believe that the U.S. Supreme Court should be taken out of the campaign finance equation, then the Hollings constitutional amendment is for you.

If the Hollings amendment had been in place 25 years ago, there would have been no Buckley decision; Congress would have gotten its way. Independent expenditures would be capped at $1,000. Any issue advocacy that the FEC deemed capricious elections would be capped at $1,000. Everyone would be under mandatory spending limits. There would be no taxpayer funding. It would not be necessary because spending limits would not have to be voluntary.

That is why the American Civil Liberties Union counsel, Joel Gora, who was part of the legal team in the Buckley case, has called the Hollings constitutional amendment a “recipe for repression.”

The media, news and entertainment industries, ought to take note. There is no exemption for them in the Hollings constitutional amendment, no media loophole. Under the Hollings constitutional amendment, the Federal and State governments could regulate, restrict, even prohibit the media’s own issue advocacy, independent expenditures, and contributions just as long as the restrictions were deemed reasonable.

What we have traditionally done in order to assert what the Congress
might consider reasonable is look to the American people and their views. Let's look at their views with regard to the press.

Eighty percent of Americans want newspapers' political coverage regulated. You cannot do that under the first amendment; you could under the Hollings amendment.

Eighty-six percent want mandatory equal coverage of candidates by newspapers. You cannot do that under the first amendment; you could do it under the Hollings amendment.

Eighty percent want newspapers required to give equal space to candidates against whom they editorialize. You can't do that under the first amendment; you could under the Hollings amendment.

Seventy percent believe reporters' personal associations affect campaign and issue coverage.

They are right about that. Sixty-eight percent believe newspaper editorials are more important than a $10,000 contribution.

Sixty percent believe that a newspaper-preferred candidate trumps the better-funded candidate.

Forty-two percent of Americans believe editorial boards ought to be forced to have an equal number of Republicans and Democrats.

Finally, 45 percent of Americans think newspapers should be required to give candidates free ad space.

I mention this survey to make the point that if Congress is going to have the power to regulate all of this speech, presumably, it will refer to the opinions of the American people in trying to make these regulatory decisions, and all of those items I mentioned could be fair game in determining what is reasonable to be spent "by and on behalf of or in opposition to a candidate."

Again, I commend the Senator from South Carolina for offering this amendment insofar as he lays on the table just what the stakes are in the campaign finance debate. To do what the reformers say they want to do, limit "special interest influence," requires limiting the U.S. Constitution which gives special interests—all Americans—the freedom to speak, the freedom to associate, and the freedom to petition the Government for redress of grievances. That is called lobbying.

We have to gut the first amendment and throw on the trash heap that freedom which the U.S. Supreme Court said six decades ago is the "matrix, the indispensable condition of nearly every other form of freedom."

Some would call that horror reform. A few dozen Senators may even vote for it. As I said, last time 36 voted for it. We can all agree to disagree on campaign finance. We can even agree to disagree on what is reform. But surely we can also agree that this business of amending the Constitution whenever the Supreme Court hands down a result we do not like is wrong and is dangerous. We trivialize that sacred document which so embodies the spirit of America, which guarantees the success of America, and we treat it as if it were a rough draft. To be seriously contemplating chopping off a huge chunk of the Bill of Rights must seem incomprehensible to the casual viewer of this discussion.

This debate, like the debate over Shays-Meehan and McCain-Feingold, is not only about politicians' first amendment freedoms. The "in support of or in opposition to" components of the Hollings constitutional amendment refer to the freedom of everyone else in America—private citizens and groups and, yes, as I pointed out, even the media, the entire universe of political speech.

What makes the Hollings amendment on many orders of magnitude so much more egregious than the statutory proposals is that the Supreme Court cannot intervene and save America from whatever folly we would engage in on the floor in defining what "reasonable" is.

As I said, I recoil in horror from the substance of the Hollings amendment while I embrace the clarity of the Constitution it presents. It exposes the fakery of McCain-Feingold and other such speech suppression schemes. If one believes that McCain-Feingold is constitutional, as its advocates claim it is, then we do not need the Hollings constitutional amendment. If my colleagues vote for the Hollings constitutional amendment, then they have affirmed what so many of us inside and outside the Senate have been saying:

That to do what McCain-Feingold proponents want to do—restrict spending by the government in support of or in opposition to candidates—then we need to get rid of the first amendment. That is what the Hollings constitutional amendment does: No more first amendment protection of political speech for anyone, political or not.

Fifteen years ago, when I first took the oath of this office to support and defend the Constitution of the United States against all enemies foreign and domestic, I had no idea how much time and energy I would expend just that—defending the Constitution, not from foreign enemies, mind you, but from the Congress itself. I certainly could not have imagined that the Senate would spend so much time seriously discussing whether we should wipe out core political freedoms. We need to stop this, and I am confident and hopeful that the Hollings amendment will be defeated overwhelmingly tomorrow, as it has been defeated over our lifetime. I have no doubt about that.

I want to mention a couple of recent letters in relation to this amendment. One is from Roger Pilon at the Cato Institute who says in pertinent part:

I am heartened to learn that those who would attempt to "reform" our political finance law are admitting that a constitutional amendment is necessary. But that very admission speaks volumes about the present unconstitutionality of most of the proposals now in the air. It is not for nothing that the Founders of this nation provided explicitly for unrestrained freedom of political expression as a constitutional right. The Court has said, the right to make political contributions and expenditures. They realized that governments and government officials tend to serve their own interests, for which the natural antidote is unfettered political opposition—in speech and in the electoral process.

In the name of countering that tendency this amendment would restrict its antidote. It is a ruse—an unvarnished, transparent effort to restrict our political freedom and, by implication, the further freedoms that freedom ensures. That it is dressed in the gossamer clothing of "reform" only compounds this evil—even as it exposes its true character.

I also have a letter from the ACLU, dated March 24, 2000, indicating its opposition to the Hollings constitutional amendment. In pertinent part, the ACLU says the constitutional amendment:

... would also give Congress and every state legislature the power, heretofore denied by the first amendment, to regulate the most protected function of the press—editorializing. Print outlets such as newspapers and magazines, broadcasters, Internet publishers and cable operators would be vulnerable to severe regulation of editorial content by the government. A candidate-centered editorial, as well as op-ed articles or commentary printed at the publisher's expense are most certainly expenditures in support of or in opposition to particular political candidates, and, as I pointed out, would be intolerable in a society that cherishes the free press.

Even if Congress exempted the press from the amendment, what rational basis would it use to distinguish between certain kinds of speech? For example, why would it be justified for Congress to allow a newspaper publisher to run unlimited editorials on behalf of a candidate, but to make it unlawful for a wealthy individual to purchase an unlimited number of billboards for the same candidate? Likewise, why would it be permissible for a major weekly news magazine to run an unlimited number of editorials opposing a candidate, but impermissible for the candidate or his supporters to raise or spend enough money to purchase advertisements in the same publication? At what point is a journal or magazine that is published by an advocacy group different from a daily newspaper, when it comes to the endorsement of candidates for federal office? Is a national media outlet to be given broader free expression privileges than the other? Should national media outlets have to abide by fifty different state and local expenditure laws? These are questions that Congress has not adequately addressed or answered.

All of which would be before the Congress if the Hollings amendment were to become law.

Madam President, I ask unanimous consent that the letter from the Cato Institute that the letter from the Cato
Institute, the ACLU, and an editorial from the Washington Post, also opposing the Hollings amendment, be printed in the RECORD.

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

Cato Institute,
Hon. Mitch McConnell,
Chairman, Committee on Rules and Administration,
U.S. Senate, Washington, DC.

Dear Chairman McConnell: Your office has announced its support for S.J. Res. 6, offered by Senator Hollings for himself and Senators Specter, McCain, and Bryan, which proposes an amendment to the Constitution of the United States that would grant power to the Congress and the States "to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to," any federal, state, or local office.

It is my understanding that on Monday next, Senator Hollings is planning to offer this resolution with the Hollings flag-burning amendment now before the Senate. For my thoughts on the proposed flag-burning amendment, please see the testimony I have given on the issue, as posted at the web site of the American Civil Liberties Union, and the op-ed I wrote for the Washington Post, copies of which are attached.

Regarding the proposed campaign finance amendment, I am heartened to learn that those who want to "reform" our campaign finance law are admitting that a constitutional amendment is necessary. But that very admission speaks volumes about the present unconstitutionality of most of the proposed resolution now in the air. It is not for nothing that the Founders of this nation provided explicitly for unrestrained freedom of political expression and association—which includes, the Court has said, the right to make political contributions to candidates for federal office. Once S.J. Res. 6 is adopted, Congress and the states would have to demonstrate that its laws were "reasonable." "Reasonable" laws do not necessarily solve the problems that the laws were designed to or locked out of the electoral process on the basis of their third party status, lack of wealth or non-incumbency. The First Amendment clearly establishes a framework for the Congress from being arbitrary when making these distinctions, but S.J. Res. 6 would enable the Congress to set limitations on expenditures without contravening the Supreme Court's decision in Buckley v. Valeo. Some of these reform measures include:

- Providing for the FEC so that the First Amendment was designed to protect.
- Improving the resources for the FEC so that it can provide timely disclosure of contributions and expenditures.
- Providing resources for candidate travel.
- Rather than argue for these proposals, many members of Congress want to propose unconstitutional measures, such as the McCain/Feingold bill that are limit-driven and not a ceiling for campaign expenditures.
- Extending the franking privilege to all legally qualified candidates.
- Providing assistance to candidates for broadcast advertising.

The ACLU urges Senators to oppose S.J. Res. 6. As Joel Gora, Professor of Law of the Brooklyn Law School recently stated, "This constitutional amendment is a recipe for repressing the First Amendment for the first time in American history."

Yours truly,

Laura W. Murphy,
Director.

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March 27, 2000

CONGRESSIONAL RECORD—SENATE

3621
CONGRESSIONAL RECORD—SENATE  
March 27, 2000

[From the Washington Post, Dec. 2, 1996]

WRONG WAY ON CAMPAIGN FINANCE

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

The PRESIDING OFFICER. The Senator has 32 minutes remaining.

Mr. MCCONNELL. I yield to the distinguished Senator from Utah whatever time he may need.

Mr. BENNETT. Madam President, I have enjoyed this discussion because it is always enlightening and is the kind of discussion the American people need to hear in the present atmosphere, when there is a rush to blame all of our problems on our campaign finance system, and say: If we only reform the campaign finance system, the millennium will come. Everything will be marvelous. We will vote on Mondays. We will change the culture. We will do away with the tooltip too. These amendments are always for the one cause only. Just this once, the sup- porters say. But having punched the one hole, you make it impossible to argue on principle against punching the next. The question becomes not whether you have ex- ceptions to the free speech clause, but which ones?

Nor is it clear that an amendment would solve the problem. It would offer a moment not the will. The system we have is a system that benefits incumbents. That’s one of the reasons we continue to have it, and future incumbents are likely to want to junk it than is the current crop.

The campaign finance issue tends to wax and wane, depending on how obscene the fund-raising was, or seemed, in the last elec- tion. The last election being what it was, Congress is under a fair amount of pressure to do something. So how can you modularize the goal, you end up having to regulate lightly and indirectly in this area, which means you are almost bound to achieve an imperfect result.

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

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

The American political system is never perfect world, and that would be its virtue as well as a flaw.

We have enough examples before us that it is not at all clear that the current reforms being talked about—whether it is a constitutional amend- ment or McCain-Feingold, which I be- lieve would be struck down as uncon- stitutional—do not work. Let’s look at the evidence. Let’s see what we have.

Stuart Rothenberg has a column in Roll Call, a newspaper with which all of us on the Hill are familiar. This ap- peared on March 20, 1997, but it is still applicable. It is talking about cam- paign finance reform applied in the State of Colorado. It is called “Look Before You Leap: Colorado’s Lesson on Campaign Finance.” It goes through and describes the reforms that were established in Colorado, backed by Common Cause and the League of Women Voters, setting limits on can- didates and limits on contributions. To quote Rothenberg:

Now, however, most seasoned political operatives and many candidates will tell you privately that they think the law is terrible. They complain that the limits are too low . . . and they note that the law doesn’t ad- dress independent expenditures, which will now balloon.

That is the point I want to make over and over again: “independent ex- penditures, which will now balloon.”

He goes on in the column to say:

So instead of making candidates more re- sponsible for the campaign environment, the law essentially encourages independent forces to become active.

Here is where they have tried it. They have found that special interest power has gone up, not down, and that candidates have been forced out of the equation to a great degree, while spe- cial interests have filled the vacuum.

He concluded his column by saying: Clearly, the voters don’t like the current campaign finance system, and they are eager for change. But they haven’t considered the ramifications of many of the proposals, and presumably through ignorance or ig- nored the realities of political campaigns. Reformers would be well advised to start at the beginning, not at the end.

If I may be a little parochial for a moment, there is an editorial that appeared in the Salt Lake Tribune, my hometown newspaper, entitled “Don’t Ban Soft Money.” The Salt Lake Trib- une is not known for its friendliness to Republican candidates. But they have raised this issue, as is their first amendment right as a newspaper. They say:

The campaign-reform prescription of the moment is “ban soft money.” Beware. The cure could be worse than the disease.

They go on to describe all of that, and then they make the same point as Stuart Rothenberg:

A ban on soft money would simply encour- age big donors to run issue campaigns them- selves. Then a candidate’s supporters could do a hatchet job on an opponent without any accountability to anyone. Some groups al- ready are adept at this tactic.

I do not know if they ever met, but the Salt Lake Tribune and Stuart Rothenberg are making the same point: If you put the campaign finance reform pressure on the candidate, you increase the power of independent expendi- tures, you increase the power of special interest groups.

Here is a column by Dane Strother, a Democratic political consultant. I am trying to not just quote Republicans here. This appeared in the New York Times on February 1, 1997. He said:

Limiting candidates’ spending usually suc- ceeds only in giving special interests even more clout. Consider recent “reform” efforts in Kentucky and the District of Columbia.

Once again, that is the same state- ment as these others. I will repeat it:

Limiting candidates’ spending usually suc- ceeds only in giving special interests even more clout. Consider recent “reform” efforts in Kentucky and the District of Columbia.

We are dealing with actual results here. We are not dealing with theory. He describes how, when he was living in the District of Columbia, campaign contributions were limited. He says:

In 1993, Washington limited contributions in mayoral races to $100.

Boy, that is draconian—down from $2,000 per election cycle. Some candidates struggled mightily to raise even $30,000, and couldn’t get their messages to the public. I lived in the District then, and did not receive a single political piece of mail. Some do-gooders would find this an improvement, but information is the basis of an educated vote.

That is where the punch line—the same point. He said:

Special interests filled the vacuum. Unions and big business set up independent cam- paigns to help the candidates of their liking.
while politicians were reduced to begging them for money. For the election, the City Council returned to the old system.

“Special interests filled the vacuum”—it is the pattern that has been repeated again and again. When you put limits on the ability of a candidate to express himself, to raise the money and get his message out, you create an enormous opportunity for special interests to fill the vacuum.

Here is another example. This one had to do with an election in Chicago. It is written by R. Bruce Dold. He talks about the 1984 race where Charles Percy lost his seat to Paul Simon.

He said this was brought about, in large measure, because of a campaign run by an outsider whom he identifies as a man named Michael Goland who had no connection whatsoever to Paul Simon. But he did not like West Percy’s voting record. So he ran a series of ads. He spent more than $1 million running his ads, independent of either Percy or Durbin, attacking Percy as a chameleon. He said, if you put pressure on the candidates, you will see as a chameleon. He said, if you put pressure on the candidates, you will see far more chameleon ads.

He points out that in 1996, the AFL-CIO spent millions of dollars to run “Mediscare” ads against Republicans; and then, to balance it, he shows that the Christian Coalition and the National Rifle Association tried similar maneuvers. He says, summarizing once again:

If these groups want to express a political opinion, more power to them. But McCain-Feingold would make them more powerful than the candidates themselves.

That is another example, another place. You go to Colorado, you go to Utah, you go to Washington, DC, you go to Chicago—everywhere it is tried, it is deemed unreasonable. After the election, the more pressure you put on the candidates in the name of campaign finance reform, the more you give to the special interest groups who then in the words of one of the columnists there, fill the vacuum.

I have more that I would like to say, but I see my colleague from Washington is here, and I want to close so we can hear from him.

I simply want to commend to the Members of the Senate an article reprinted from the University of West Los Angeles Law Review written by James Bopp, Jr., and Richard E. Coleson, in which I think they summarize it all in the title of their article. The title is: “The First Amendment Is Not A Loophole.” I cannot think of a better summary of this entire debate than that title of this article by these lawyers in this law review: “The First Amendment Is Not A Loophole.” Then they add the subhead: “Protecting Free Expression In The Election Campaign Context.”

I may come back to this article at a later point in the debate. But as I say, now I wish to wind up so we can hear from the Senator from Washington. I cannot think of a better summary than that of this title, and I leave it at that:

“The First Amendment Is Not A Loophole.”

Mr. GORTON. Madam President, again I thank my good friend from Utah for his support and important contribution to this debate. We will have another hour in the evening where I hope he will be available and we will discuss that further.

How much time do I have left?

The PRESIDING OFFICER. The Senator has 21 minutes remaining.

Mr. MCCONNELL. I yield to the distinguished Senator from Washington such time as he may need.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MCCONNELL. I simply want to commend to the distinguished Senator from Washington, his article on constitutional amendment. It is written by R. Bruce Dold. He talks about the enormous opportunity for special interests to fill the vacuum.

Now, what is it that leads us to this moment? Clearly, it is the feeling, the opinion, that too much money is spent on politics, that there is too much political speech, and that it is clearly too free. The distinguished colleague who sits in front of me and was recently a candidate for President was, I think, rightly critical of two Texas millionaires who advertised in a way he considered misleading and false. This proposal would say that they could be completely muzzled, that they could be denied the right to speak at all, if it was deemed unreasonable. And certainly, our significant those who write the very laws that impact of such speech deems it to be unreasonable, as would many incumbents in many Congresses in the United States.

We are here dealing with this proposition: “Too much money is being spent on politics. Not that too much money is being spent on regulating the activities of the people of the United States, not that too much money is being spent on social or political programs of the United States, but that too much money is spent in responding to those programs and to that regulation and that somehow or another the power of the Federal Government to regulate economic, environmental, and social activities is so benign that we can muzzle the criticisms of those who are adversely affected by that regulation. At least we can muzzles those expressions which are directed at changing the people who write the very laws that impose those regulations.

We can treat the very least ascribe consistency and thoughtfulness to the promoters of this constitutional amendment who are also eloquent spokespersons for the original McCain-Feingold legislation. Legislation that limits, that comes close to eliminating the right of an outside person so much as to mention the name of a candidate 6 weeks before an election.

Yes, if you want to say that anyone—including a newspaper editorialist but the man who does not own a newspaper—who wants to criticize a candidate for office in the 6 weeks before an election, if you want to eliminate that right, if you think it is desirable to limit or to eliminate that right, you do, in fact, need this constitutional amendment.

McCain-Feingold, as it came before this body, in that respect at least is clearly and blatantly and openly in violation of a constitutional provision, the First Amendment to the Constitution which says: “Congress shall make no law respecting freedom of speech or of the press.” That may be the single most quoted line in the entire Constitution of the
It is my understanding there are 2 hours equally divided in the morning.

The PRESIDING OFFICER (Mr. ROBPORT). The Senator is correct in that assumption.

Mr. McCONNELL. It is not yet determined when that would begin, is it?

The PRESIDING OFFICER. At 9:30.

Mr. McCONNELL. Two hours equally divided beginning at 9:30 a.m.

The PRESIDING OFFICER. That's correct.

Mr. McCONNELL. I yield the remainder of the time on this side to the distinguished Senator from Utah.

Mr. BENNETT. Mr. President. I wish to add another point to the points I made earlier when I said that holding down the ability of candidates to express themselves in terms of the amount of money they can raise and the amount of advertising they can do only creates an opportunity for special interests to fill the vacuum. There is one other point I need to make with respect to the perceptions on this issue. The first perception, which I think is the most compelling, is that expenditures and the contributions will somehow control the special interests.

I am sure the results of where it has been tried has been in the opposite direction.

The special interest rule now through campaign contributions—I want to share this with the Senate. A survey was done in Fortune magazine, published in December of 1999, byline, Jeffrey Birnbaum, who, again, is not normally known for his sympathy of the positions of this Senator, he talks about the impact of money on politics in Washington in this article. Fortune magazine does an annual survey of who has the most clout in Washington, which special interests are the most powerful.

For 3 years running now—and in this article it is the same one—the No. 1 special interest that has the most power in Washington, rated by those who have done the survey, is—the envelope please—the AARP, which is a group that, by its rules, does not give any campaign contributions to anyone. The group that is considered the most powerful special interest in Washington by this independent survey is a group that does not give campaign contributions, hard or soft.

One of the individuals involved in pulling together the survey, a man from the Mellman Group—Mark Mellman is his name—he is one of the pollsters. He normally polls on the Democratic side of the aisle. I think my Democratic colleagues might recognize his name. He made this comment, "We couldn't find any direct relationship between campaign donations and clout."

I think that is worth repeating in this overheated atmosphere about how campaign contributions are "buying" the Congress. Here is an outsider coming in to do a survey of the most powerful special interest groups in this country and he has them rate their power, and he says: "We couldn't find any direct relationship between campaign donations and clout."

The question arises: if their clout does not come from the campaign contributions, why does the AARP have so much power? It is because they have so many members. It is voters who make the difference.

What is the group in second place behind the AARP? It is the National Federation of Independent Businessmen. Why do they have so much power? Because they have so many members. It is voters who make the difference.

I am sure that no one would want to say to the AARP, in the name of campaign finance reform, we are going to forbid you to tell your members what you think about how people vote in Washington. Are we going to say to the NFB, we are going to forbid you to talk to your own members in the name of campaign finance reform? Those are the groups that are 1 and 2 in this independent survey.

You can go through the whole thing and you will begin to realize that all of the conversation about contributions and power in Washington is conversation that takes place in the press gallery. In the reality of where we compete in the election process, it misses the mark.

I remember during the hearings someone said: Senator, with this process you are allowing people to buy access to you. I responded then as I respond now: The best way for you to get access to me is to register to vote in the State of Utah. If you are a voter in the State of Utah, I will do my best to get access to you, greet you, sign autographs, make you feel good. It will not cost you anything, particularly if you live in Utah. If you don't live in Utah, it would be a little hard to register there. So I think there are some myths that need to be dispelled.

The final one I want to address has to do with this question of the amount of money that is flowing and is being raised. I am quoting now from a paper presented by Professor Joel Gora from the Brooklyn Law School, another Democrat, a man who was heavily involved in Senator Eugene McCarthy's insurgent campaign for the Presidency in 1968. He makes this point:

Senator McCarthy's landmark and principal 1968 Presidential campaign raised more money, adjusted for inflation, than George W. Bush's campaign this year . . .

I didn't hear anybody complaining in 1968 that Eugene McCarthy was a tool of corporate interests buying special interest money. He raised more money, adjusted for inflation, than George W. Bush has raised this year. And Professor Gora goes on to say:

... and did so relying on an extremely small handful of extremely wealthy individuals who shared the ideals and values of Senator McCarthy and his supporters. Only in
The amendment which has been presented is necessary because of the decision in the Buckley case, and it is improperly characterized as an amendment to the first amendment of the U.S. Constitution. In my personal view, the first amendment to the U.S. Constitution is inviolate. Those words have stood this country tremendously well, and I would fight any effort to change the language of the first amendment. But a decision by the Supreme Court of the United States in interpreting the first amendment is inviolate. Those words have stood this country tremendously well, and I would fight any effort to change the language of the first amendment. But a decision by the Supreme Court of the United States in interpreting the first amendment is inviolate. It is not Holy Writ. These judgments are handed down by individuals who are nominated and confirmed in the Senate, and they and their opinions because that is their opinion as to what the first amendment means.

I submit that to say speech is equivalent to money is basically outrageous. But until that is changed and our Constitution requires that in the form of a constitutional amendment, it ought more properly to be said that it is the opinion of the Congress by a two-thirds vote backed up by the opinion of the State legislatures, three-fourths of which are necessary to have the amendment come through, that the opinion of the Supreme Court is not correct.

We are debating at the same time a constitutional amendment on the flag-burning issue. Here again, it is not the Constitution which says that in the first amendment a citizen or anyone who has a constitutional right to burn a flag. But five Justices said in opinions the first amendment raises that implication. Four Justices said the first amendment did not raise that implication. This amendment adopted because respect to the men and women who occupy the chambers of the Supreme Court, with the columns lining directly up with the Senate Chamber, having participated in my tenure in eight confirmation proceedings, their opinions are not inviolate. And their opinions are subject to modification. As our Constitution is written, they have the last word unless the provisions of the Constitution are followed to have a change and an amendment. When the Constitution was formulated, the Congress was in the first article, and I think the drafters of the Constitution thought that Congress was the primary article I body. The executive branch came in article II. The Court came in article III. There is nothing in the Constitution which says the Supreme Court of the United States has the power to invalidate an act of Congress. There is nothing in the Constitution which says that. But the Supreme Court of the United States in 1803, in perhaps the most famous of all Supreme Court decisions, in Brown v. Board of Education—perhaps some others—said that the Supreme Court had that authority. I believe it was a wise decision because someone has the last word. But their pronouncements are not statements from the tabernacles, from the Ten Commandants, or Holy Writ. They are their opinions. It is a very tough mountain to climb to change the language of the first amendment. It brings together a coalition of people who articulate the sanctity of the first amendment really misstating its the sanctity of the opinions of the Justices.

Buckley v. Valeo was a split decision. Those individuals, institutions, agencies, are combined with the people who want to maintain the money chase for elective office the way it is at the present time, so there is no doubt it is a very tough mountain to climb.
say so because it will not pass. It is like the constitutional amendment for a balanced budget that requires 67 votes. There are people who say they are going to vote for it, but until it gets to 66, nobody will cast that 67th vote, so there is a fair amount of posturing on the issue before anything can be adopted.

It is important to focus on the fact that this provision, this amendment, this change in the opinions of the Justices of the Supreme Court in Buckley v. Valeo does not adopt any specific kind of change in the campaign laws. It does not say what will happen to soft money. It does not say what will happen to corporate contributions. It does not say what will happen to union money. It does not say what will happen to money of millionaires or billionaires.

As we speak, there are campaigns underway for $25 million in one State in a primary. Is a seat in the Senate something that ought to be up for sale? I think $25 million for a primary is too high. Experiments ought not to be up for sale. There is too much of a public trust here for any individual to buy a seat in the Senate or the House of Representatives. That is the practical fact of life.

When the Supreme Court of the United States decided Buckley v. Valeo—and it is one of the most challenging opinions to read; it goes on for 128 pages of single-spaced opinions—the Court said at one point:

We agree that in order to preserve the prohibition against invalidation on vagueness grounds, section 608(e) must be construed to apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for Federal office.

Then they have a footnote which says: The Constitution would restrict the application to communications containing express language of advocacy of election or defeat such as “vote for, elect, support, cast your ballot for, Smith for Congress, vote against, defeat, reject,” et cetera.

That interpretation, on what is called express advocacy, has led to extraordinary approval of political advertisements, so-called “issue advertisements,” not regulatable by campaign finance and which can be paid for by soft money which corporations or individuals can put up in large amounts—millions of dollars.

Let me read a couple of commercials from the 1996 election early on purchased with soft money, which really turned the election. This is not a Democrat issue or a Republican issue. Both sides comport themselves about the same.

This is a commercial for President Clinton’s reelection.

American values are our duty to our parents. President Clinton protects Medicare. The Dole-Gingrich budget tried to cut Medicare $270 billion. Protect families. President Clinton cut taxes for millions of working families. The Dole-Gingrich budget tried to raise taxes on eight million of them. President Clinton proposes tax breaks for tuition. The Dole-Gingrich budget tried to slash college scholarships. Only President Clinton’s plan meets our challenges, protects our values.

Could anybody with hearing and sanity say that is not an advertisement for President Clinton? The Supreme Court of the United States says it is not. That is an issue ad. Why? Because it doesn’t say “elect Clinton.” It doesn’t say “defeat Dole.” But it says President Clinton protects Medicare. It says Dole-Gingrich tried to raise taxes on 8 million citizens.

Try another one:

60,000 felonies and fugitives tried to buy handguns—but couldn’t—because President Clinton passed the Brady bill—five-day wait, background checks. But Dole and Gingrich voted no. One hundred thousand new police because President Clinton delivered. Dole and Gingrich? Vote no, want to repeal? Strengthen anti-drug programs. President Clinton did it. Dole and Gingrich? No, again. Their old ways don’t work. President Clinton’s plan. The new way. Meeting our challenges, protecting our values.

Try this one on for size:

Protecting families. For millions of working families, President Clinton cut taxes. The Dole-Gingrich budget tried to raise taxes on eight million. The Dole-Gingrich budget would have slashed Medicare 270 billion. Cut college scholarships. The President defended our values. Protected Medicare. And now, a tax cut of 1,500 a year for the eight million. The Dole-Gingrich voted no. One hundred thousand new police because President Clinton delivered. Dole and Gingrich? Vote no, want to repeal? Strengthen anti-drug programs. President Clinton did it. Dole and Gingrich? No, again. Their old ways don’t work. President Clinton’s plan. The new way. Meeting our challenges, protecting our values.

That is not a commercial for President Clinton, that is an issue advertisement, so says the law of the land handed down by the Supreme Court of the United States. To say it is ridiculous or to say it is outrageous or to say it is nonsensical, to say it is stupid is an understatement. Those are the laws we are operating under now.

We face very determined opposition. I heard a lot of arguments about myths and facts, arguments that the Constitution’s right to freedom of speech would be changed by what Senator HOLLINGS and I and others are proposing. That is not so. It doesn’t deal with the right to freedom of speech under the Constitution. It deals with campaign contributions and campaign expenditures.

When you talk about a good bit of the legislation which is pending, it is not going to do the job even if it is enacted. Better to try than not to try, but if you are dealing with soft money, it is going to be rejected under the clear-cut language of Buckley v. Valeo on what is express advocacy contrasted with what is issue advocacy.

The only way to get this job done is to adopt an amendment. We call it a constitutional amendment, but it really is not a constitutional amendment.
March 27, 2000

CONGRESSIONAL RECORD—SENATE

3627

seeing if we do not go late on Thursday night because I have to get back to South Carolina for a fundraiser. Every Senate campaign has its peaks and valleys. We are not on peak Monday. We are not here on Friday. In 1966 and 1967, under Senator Mansfield, I can tell you right now, we worked until late Friday afternoon and we reported back for roll calls at 9 o’clock on Monday evening. We are not in that mode now.

We worked the full time. We worked the full months. We did not have January off and then another big break in February and another break in March and another break in April and another break in May—June and another break of a month in August. Why the breaks? To raise the money. If you are not raising it for yourself, you are supposed to go out and raise it for your colleagues.

The whole process has been corrupted. It is a money chase. We cannot get a bill. We cannot get a debate. We cannot talk to each other. Nobody is here. They are not expected to be here. TV has corrupted that. If one wanted to know what was going on in the Chamber, they had to go out of their office and come to the floor. We always had 15 or 20 Members on one side and 20 or 30 Members on the other side listening and joining in, and we had debates on serious matters. We debated. The most deliberative body in the world was our reputation.

Now we do not bring up a serious matter unless it is fixed. We cannot produce a budget unless the vote is fixed in the Budget Committee, and when they can get it through it is late Thursday evening, when it is quite obvious none of the amendments are going to be adopted. The vote is fixed. The jury is fixed. There is no deliberation. They will bring that up, and then they have fixed time on it.

Go to the leader and say: We want to take up this measure, and it takes 3 or 4 days; and he will look at you as if you are stupid: Don’t you know better, we don’t have time to deliberate, we don’t have time to debate.

The system is corrupted. Get a life. Get along. Go out. Collect some money. After all, it is the money chase. We have to work for ourselves to stay in office or to keep our colleagues in office. That is the name of the game.

Impersonally, I remove the list—but when they want money, oh, wait a minute, there is an exception. That sham, that fraud, that charade of Y2K. For 30 years, the computer industry had notice of the year 2000. For 30 years, they all could have changed. They still have 7 months or so to change.

There was a big debate. Why? Because the lawyers got the Chamber of Commerce to gin up Silicon Valley.

The gentleman from Intel told me there was not a real problem, and everybody else said there was not a real problem. But we had a problem. It was a money chase for getting Silicon Valley’s money in Y2K, and the media covered it: How much Bush had received, how much Gore had received, how much Microsoft had received, and we continue to invite Silicon Valley here for special sessions. We are really interested.

That is not middle America, and they are not going to create our industrial backbone. We admire their ingenuity and their talent. We are not jealous of the money. Let them all make millions. We just want our share.

Y2K came, and we passed it. Nothing happened. In opposition to the States, in opposition to the States’ supreme court justices, in opposition to the American Bar Association, we repealed 200 years of State tort law. Why? Because of the money. Why, we spent 4 days on that one. That was highly important. Just put up a straw man, knock it down, and then go home, boldly and proudly saying: Look what we have done; we took care of Y2K.

Yet, on the other hand, if we have a real problem, they will not call it up. When an account of the money, I have a TV violence bill. There is no mystery to this. Europe, Australia, and New Zealand do not have children shooting each other in schools. They have a safe harbor practice so that violence appears on television after hours.

I introduced the same thing, and it was in the Commerce Committee in the last two Congresses. Senator Dole was there. When he went out to the west coast, he came back and said: Oh, this is terrible. I said: Senator Dole, why don’t you be the chief sponsor, you run it, you take credit for it. It has already been debated and we have had testimony on it, and it was reported out by a vote of 19-1 from the Commerce Committee. It is on the calendar. Call it. Oh, no, you can’t do that. We need the Hollywood money. I have it on the calendar now. Again, we debated it. We brought out the study the industry conducted, and the motion picture industry itself found that violence was on the rise.

It is a real problem in this country, but we talk a little bit here and there. When we want to get a tried and true approach and it is on the calendar, they say: Wait a minute, don’t call that, let’s not do it.

It is not called up because of the money. This attitude has corrupted the process, and we have a gang over there that loves the corruption. They come here with their octopus defense. I have seen it before. We used to try cases, and if you do not have the facts and you do not have the lawyer beaten on the desk, you squirl out that dark ink of freedom of speech, first amendment, 2,000 years, 20,000 amendments. This is a shocking thing it is with that black ink like the octopus, putting up all the billboards about the freedom of the press and how people want editorial writers to be equally Democratic and Republican—what kind of nonsense is all of that! And what about getting up and saying: All I want is for you to register and vote.

Quoting further:

The current system would be unfortunate, and suspect under the First Amendment, but its unhappy origins are in our earlier decree in Buckley, which by accepting half of what Congress did (limiting contributions paid to a candidate, speech subject to full disclosure and prompt evaluation by the public), is not. Thus has the Court’s decision given us covert speech. This mocks the First Amendment.

That is what Justice Kennedy talks about. That is what I am talking about. Don’t give me this: Freedom of speech and first amendment. What a shocking thing it is with that black ink like the octopus, putting up all the billboards about the freedom of the press and how people want editorial writers to be equally Democratic and Republican—what kind of nonsense is all of that? And what about getting up and saying: All I want is for you to register and vote.

Quoting further:

The Court has forced a substantial amount of political speech underground, as contributors and candidates devise ever more elaborate and surreptitious ways to avoid contribution limits, which make an accounting of the campaign

soft money must be raised to attack the problem of soft money.
See, when we find Johnny Huang guilty, that is in violation of the contributory liability law. That is not free speech. That is money. One boy, I wish I was a lawyer before the jury with that crowd.

When they held the committee here with Charlie Trie, we had the Governmental Affairs Committee conduct the activities. I do not know how many months, but there were depositions, interviews, 196 depositions under oath, 418 subpoenas, with a final report published in 1998 with six volumes, 9,575 pages—about contributions, not free speech.

But now this afternoon, we pushed that aside. The Senator from Texas says, You Democrats have all the labor unions and we have the corporate money. However, in South Carolina, I don't have either one. So let me give you George W. Bush's statement on soft money, because he's an authority on the subject.

This is on January 23, George Will, questioning Governor Bush:

In which case would you veto the McCain-Feingold bill or the Shays-Meehan bill?

Governor Bush:

That is an interesting question. Yes, I would. And the reason why is two for one. And I think it does restrict—

I am quoting it verbatim here as written.

—free speech for individuals. As I understand how the bill was written, I think there has been two versions of it. But as I understand, the first version restricted individuals and/or groups from being able to express their opinion. I've always said that I think corporate soft money and labor union soft money—which I do not believe is individual free speech. It is not limiting speech. You can't limit speech. But you can limit contributions. I think it does restrict—

We have Vice President Gore. He got the message about the corruption. He said: The first thing I will do when I am your President is submit to Congress the McCain-Feingold bill.

The people are tired of this political mess up here. I am tired of being a part of it. They will hear from me again and again. The reason you hadn't heard about it is that they forbid a joint resolution from coming up. I studied the calendar and waited for a joint resolution so that my joint resolution won't be objected to on a point of order. It is finally in order and we can hear it. But then I had to go along or else I wouldn't have had a chance to introduce it at all because then they would have brought the flag amendment up and the cloture vote. So you bag around here, this most deliberative body, for an hour or 2 hours to get some work done and nobody is here. Nobody wants to be here because they are supposed to be out raising money and having fundraisers. They fasts in the morning and windows at lunchtime and in the evening. It's taking a few hours on Wednesday afternoon to call on behalf of your campaign committee and come up with thousands of dollars, your fair share. It is money, money, money, money. It is corruption.

You tell me about the Washington Post; that crowd still calls the deficit a surplus. You tell me about the ACLU and all these other authorities running around and the scare tactics, that octopus defense, and the dark ink and all of those other irrelevant matters. We are talking sense. We are talking law. We are talking about what the Justices have just stated. There is no question why Justice Stevens said money is property and not speech. He was only one of the nine. The others could have gone along and reversed Buckley, and we would be out of this dilemma. We would go back to the original intent, which was to control spending. Now we are proudly hollering about this and these frauds, and we are going to take the newspapers and do away with the editorialists and control the press. This amendment doesn't use the word "speech." It says "contributions." It is money. That is exactly what we have controlled throughout and that is what is intended.

The Senator from Alabama, Mr. Sessions, stood up there and started reading this. He said that is limiting speech. It is not limiting speech. You can't limit speech. But you can limit the freedom of the contributions. You and I know that. That is what we are trying to do.

Under the 1974 act that computed spending limits by the number of registered voters, Senator Thurmond and I would have had $570,000. Double that to a million or a half or give us 2.5 million. That is a gracious plenty. When I first ran for office I ran against a millionnaire—a most respected gentleman, but he had the money. But we out-organized him, just organized my opponent the year before last in South Carolina. That is why I am still here and able to talk.

I don't buy cars in campaigns, but it was suggested that a lot of other candidates do. When they rent, lease, and then later buy a piece of property, all of that is not freedom of speech. That is money. It is contributions. It is where you ought to try to control the spending limits so we don't become a bunch of millionaires and instead go back to what Russell Long said: Every mother's son would be able to run for the highest office in the land.

I could go on and on. The afternoon is late. To repeal the first amendment, the Senator from Washington turned to the Senator from Kentucky and said, read that word, that is to "repeal" the first amendment. Now, if you believe that, you go ahead and vote against this. But you know and I know, it is to repeal the corruption. That is what I am about. I am trying to repeal the corruption. I am trying to get back to the original intent. Yes, you might say we had 38 votes. I remember when we
CONGRESSIONAL RECORD—SENATE

March 27, 2000

3629

had 52 votes, a majority, for this. I re-
member when I had a dozen Republican
co-sponsors.

I admire my colleague from Pennsyl-
vania for sticking with me on this, mak-
ing it bipartisan. But I don’t know of an-
other one over there, because they have
been disciplined and put right into the
trough and told: You stick with us. This is
a party vote, and this is it. It is freedom of
speech and don’t you forget it.

It is not freedom of speech. It is
money. We are trying to control the
purchase of the office. We are trying to
correct the corruption. We are trying to
give back to our work on behalf of the
people, which is very difficult to do
with the pressures now on Senators up
here. It is disgraceful. It is absolutely
disgraceful. Everybody knows it. I
want you to listen to it. The Senate is
not around. They are not going to con-
test it. They are going to make these
comments about so many years and so
many amendments and the freedom of
speech and the hallowed document and
everything else.

I have gone down five of the last six
amendments; all had to do with elec-
tions, less important than this corrup-
tion to be corrected, far less a threat.
I admit, recognize, agree with the Sen-
ator from North Dakota that we
shouldn’t do it lightly, and we are not
doing it lightly. If it was only a minor
problem, whereby we could merely pass
a statute, I would do it. But all of these
statutes, McCain-Feingold, as the Sen-
ator from Kentucky has contended
each time, is patently unconstitu-
tional. You can tell from reading this
most recent decision on soft money
how they are equating everything with
speech. You can see how they have im-
munized their mistake from change.
Those are not my words. Those are Jus-
tice Kennedy’s words. They have “im-
munized” their mistake from change.

So we have to have a constitutional
amendment. This is written very care-
fully, very deliberately, and very rea-
sonably by the Senator from North Da-
quad. Those are my words. Those are my
words.

The distinguished Senator from
Utah, Mr. BENNETT, said that limiting
candidates would give special interests
more power. It would create a vacuum,
and the special interest would fill the
vacuum. There isn’t any vacuum, ex-
cept for the poor. The special interests
are in there to the tune of millions and
millions. That is what we all know. We
are trying to limit the special inter-
est. We are not trying to create a vac-
uum they can fill.

That is exactly the point of this par-
ticular amendment. You go over again
and stand men of exactly the opposite of
what is in-

sent to me.

The indictment of Chattanooga dev-

eloper Franklin Haney highlights
what some campaign reformers believe
could be a frequent, but hard to prove,
crime—companies reimbursing
their employees for contributions.

The indictment charges that Haney
and his administrative assistant, who
was not named in the indictment, in-
structed company employees to make
contributions of $1,000 apiece, filled
out the donor cards themselves and then
wrote Haney Co. checks to reim-
burse the employees.

House Republicans have charged
that the fees paid by Haney, $1 million to
Knight and $1.8 million to Sasser, may
have been illegal contingency fees.
Government contractors may not pay
lobbyists based on whether a
contract is awarded. The Justice
Department officials indicate they
may have been illegal.

According to the indictment, if
Haney came on their radar screen be-

"If it happens, it happens more out of igno-
rance than a willful desire to violate the
law," said Gary Burhop, lobbyist for the
American Life League, which opposes
abortion. "But in this case, the
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Larry Sabato, a University of Virginia political scientist, suggested campaign finance laws for 25 years, said he doesn’t believe the practice “is widespread, but I don’t think they catch everybody who does it, either. It’s very difficult to catch unless somebody snitches. You have a know who to target.”

Haney’s indictment was the second brought under the campaign finance task force. On September 30, Mark Jimenez of Miami, the chief executive officer of Miami-based Future Tech International, was charged with funneling $23,000 into the Clinton-Gore campaign, and $16,500 into four other Democratic campaigns, from his company and another controlled by a relative.

Two companies have been prosecuted by local U.S. attorneys for using straw donors to make illegal contributions to the 1996 presidential campaign of former Kansas Republican Bob Dole.

Simon Fireman, a national vice chairman of Dole’s campaign, funneled $100,000 into Dole’s campaign using employees of his company, Leisure Industries of Avon, Mass. He paid a $6 million fine.

Empire Sanitary Landfill of Scranton, Pa., pleaded guilty to contributing $110,000 to the Dole campaign. The company, Aqua Leisure Industries of Avon, paid a $6 million fine.

Independent counsel Donald Smaltz was appointed to investigate football game tickets and other gifts to former Agriculture Secretary Mike Espy, but his four-year probe has produced six convictions for illegal corporate campaign contributions.

In one case, lobbyist Jim Lake arranged for $5,000 in contributions to the 1994 Mississippi congressional campaign of Espy’s brother, Henry Espy, and then padded his expense account to get the money back. He was fined $150,000 and ordered to write and send descriptions of the campaign finance law to 2,000 lobbyists.

In another, New Orleans attorney Alvarez Ferrouilet was sentenced to 1 year in prison for disguising $30,000 in illegal contributions to Espy.

The other cases have resulted in fines of $1.5 million against Sun-Diamond Growers, $480,000 against Sun-Land Products, $80,000 against American Family Life Assurance Company, and $2 million against the Crop Growers Corporation.

This corruption is rampant, and you can’t stop it unless you get this constitutional amendment. Everyone understands what Justice Kennedy said—that you are about to have this covert speech. You are not going around, and you are not going to employees, because the name of the game is—I know because I ran for President. I know one State that I believe I could have lost, but the one who succeeded in taking it spent r thousands of dollars above the limit. It was 2 years later they found out that he spent over the limit. That was the end of that.

What I am saying is, you can’t control this. It is a Federal election campaign practices commission because it is all ex post facto. It is lost in the dust.

This has been going on, particularly with you and I serving in the Senate. We can’t talk sense, we can’t debate, we can’t get measures up, and we can’t deliberate because we have been corrupted by the money chase.

Mondays and Fridays, gone; Tuesday and Thursdays, dinners, fund raisers, breaks now every month of the year. Why? They go raise some more money, and we are not getting the work of the people done.

I was here when it worked, when we met at 9 o’clock on Monday morning. Nobody was here at 9 o’clock this Monday morning. Nobody is here now because they are all out raising money. I can tell you, we worked until Friday afternoon at 5 o’clock. Ask Senator Byrd. He remembers. He knows how hard we worked in those days when he was leader.

But the system and the Buckley v. Valeo cancer are overtaking all of us. We are all part of it. I have asked for windows, and I have had to chase at holidays. I continue to do so. I am saying to myself and to all of us that it is time we sort of fess up and understand that this has to stop. We have to start working on behalf of the people and not ourselves. Let’s do away with the corruption before we get back to the original intent of Buckley v. Valeo, which was totally bipartisan and overwhelmingly passed. That was to limit spending or stop the buying of the office.

We had that enough in 1978, which I explained because I know what was stipulated upon in cash money in my particular State. It was listed all over the country. Connolly asked the President, and he went down to collect. They put up with Dick Tuck in the Brinks truck as it turned into the ranch in order to have the money. The President could thank his contributors whom he had not even met.

We all were so embarrassed. It is bad when there is not even any embarrassment in this body. This corruption is exacerbated. I learned that word having come to Washington—‘‘exacerbate.’’ It continues to exacerbate, and it gets worse and worse.

I yield back the remainder of our time, and I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Mr. SESSIONS. Mr. President, on behalf of the leader, it is the leader’s hope and intention to have a final vote on the pending joint resolution before the Senate adjourns on March 28. However, if a consent agreement cannot be reached, a cloture vote will occur on Wednesday morning. With that in mind, I send a cloture motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion. The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Calendar No. 98, S. Res. 14, an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

Trent Lott, Orrin Hatch, Bill Roth, Peter Fitzgerald, Rod Grams, Ted Stevens, Chuck Hagel, Thad Cochran, Paul Coverdell, Pat Roberts, Phil Gramm, Frank H. Murkowski, Don Nickles, Bob Smith of New Hampshire, Susan Collins, and Tim Hutchinson.

Mr. SESSIONS. It is the leader’s hope the final vote will occur tomorrow. However, if this cloture vote is necessary, I now ask consent it occur at 10 a.m. on Wednesday and the mandatory quorum under rule XXII be waived.

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

MORNING BUSINESS

Mr. SESSIONS. Mr. President, I ask consent there be a period for the transaction of routine morning business.
with Senators permitted to speak for up to 10 minutes each.

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

THE OIL CRISIS

Mr. MURKOWSKI. Mr. President, there has been a great deal of anticipation today on what OPEC might do. For those of you who do not recall the sequence, several weeks ago, our Secretary of Energy went over to OPEC, encouraging them to increase production. The concern was that we were approximately 56-percent dependent on imported oil. A good portion of that came from OPEC. As we saw with the Northeast Corridor crisis on heating oils, there was concern over the availability of adequate supplies of crude oil. It appeared that we were going to get nowhere in the area of 2 million barrels a day more in the world than are being produced currently. That sent a shock through the oil marketers and resulted in our Secretary going over to OPEC with the Secretary of Commerce and urging them to increase production.

They indicated they were going to have a meeting on March 27, which is today, and would respond to us at that time. The Secretary indicated that this was a dire emergency, that oil prices were increasing and the East Corridor was looking at oil prices in the area of nearly one and a half dollars and he needed relief now. The OPEC nations—particularly the Saudis—indicated they would address it at the March 27 meeting. So, in other words, the Secretary was somewhat stiff-armed.

Well, the Secretary, as you know, went to Mexico and encouraged the Mexicans to increase production. The Mexicans did comply, but reluctantly, but the Secretary reminded the Secretary that last year when oil was $10, $11, $12, $13 a barrel, and the Mexican economy was in the bucket, where was the United States? The Secretary indicated we would help Mexico out with the tesobonos, ensuring that they would be bailed out. But to make a long story short, we didn’t get any relief from Mexico.

Well, today, we didn’t get any relief from OPEC. OPEC said they would address it tomorrow. So the question of whether or not we are going to get relief, I think, points to one thing: We have become addicted to imported oil. We are like somebody on the street who has to have a fix. The fix is more imported oil. And when the supply is disrupted, we look at what it takes to get more.

Well, it takes maybe a higher payment, a shortage of supply. It makes the price go up. That is the position we are in. I encourage my colleagues to look very closely at what OPEC does tomorrow—indeed, if they do anything—because what they have been doing so far is cheating. Who have they been cheating on? They have been cheating, in effect, on themselves at our expense because last year they agreed to cut production. They developed a discipline within OPEC to cut production back to 23 million barrels per day. But they did not keep that commitment. They are currently producing 24.2 million barrels a day. That is about 1.2 million over the agreement.

So if they come up tomorrow and announce they are going to come out with a million and a half barrels a day increase, that isn’t a million and a half barrels net; the net is 300,000 barrels a day. So we better darn well look at that arithmetic. If they come up with 2 million barrels a day, that is relief, in a sense, but in the last year our demand increase has been a million and a half barrels a day in addition, and I did not take into account my arithmetic. Remember, we are not the only ones in the world who consume oil from OPEC. Those other countries are going to have to share in whatever increased production comes out.

So it is indeed a rather interesting dilemma that we find ourselves in as we now are dependent 56 percent on imported oil. The Department of Energy tells us that in the years from 2015 and 2020, we will be 65-percent dependent on imported oil. Well, some people say you learned by history. Others say you do not learn very much. Obviously, we have not learned very much.

There is one other factor I think the American people ought to understand. Where has our current increase been coming from? It has been coming from Iraq. Last year, we imported 300,000 barrels a day from Iraq. Today, we are importing 700,000 barrels a day from Iraq. Today, the Department of Commerce lifted some sanctions off of Iraq. Today, the Department of Commerce Brown requested that the independent petroleum producers do an evaluation on the national energy security of this country and came to the conclusion that we were too dependent on imported oil. I think most Americans are waking up to the reality that that is a very dangerous policy. To suggest we got caught by surprise—I will conclude with two little notes. In 1994, Secretary of Commerce Brown requested that the independent petroleum producers do an evaluation on the national energy security of this country and came to the conclusion that we were too dependent on imported oil.

Last March, Members of the Senate wrote a bipartisan letter to the Secretary of Commerce, Secretary Daley, asking for an evaluation on the national security interests of our country relative to our increased dependence on imported oil. He released that report in November. It sat on the President’s desk until Friday. They finally released it in a brief overview. The conclusion was that we have become too dependent on imported sources of oil and it affects the national security of this country. What do they propose to do about it? They don’t have an answer.

I will talk more on this tomorrow when we have further information on OPEC.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, March 24, 2000, the Federal debt stood at $5,730,876,091,058.27 (Five trillion, seven hundred thirty billion, eight hundred seventy-six million, ninety-one thousand, five hundred sixty-eight dollars and twenty-seven cents).

On what was 24, 1999, the Federal debt stood at $5,645,339,000,000 (Five trillion, six hundred forty-five billion, three hundred thirty-nine million).
Five years ago, March 24, 1995, the Federal debt stood at $4,846,988,000,000 (Four trillion, eight hundred forty-six billion, nine hundred eighty-eight million). Twenty-five years ago, March 24, 1975, the Federal debt stood at $505,328,000,000 (Five hundred five billion, three hundred twenty-eight million, thirty-two thousand, eight hundred) during the past 25 years.

### ADDITIONAL STATEMENTS

**SEAPower**

- Mr. CLELAND. Mr. President, over the past several years, our nation’s military has become increasingly overcommitted and underfunded—facing problems from recruiting and retention, to cuts in active fleet numbers and a shrinking active duty force. Yet in spite of these problems, the United States’ naval power, with its fleet of nuclear-powered attack submarines, life-saving Coast Guard and Merchant Marine forces, and highly skilled sailors and mariners, is the best in the world. These elements are a part of one of the most technologically sophisticated defense systems in the world. In Kings Bay, Georgia, we are fortunate to be home to the greatest submarine base in the nation, Kings Bay Naval Submarine Base. During my visits there, however, I have heard time and again how detrimental the growing gap between commitments and funding has become.

I believe that by appropriating additional funds to our nation’s defense system and by supporting efforts to create a larger force structure, we will resolve or at least begin to remedy some of these problems that are facing today’s military forces. Since I came to the Senate in 1997, I have supported funding for procurement, research and development, and readiness. In order for the United States to retain its role as a military superpower, we must pay attention to the gaps that exist today and prevent further deterioration in our armed forces. If we do not reverse this trend now, a very high price will be paid tomorrow for our collective lethargy on defense issues and for the massive under-funding of our armed forces.

Mr. President, I now respectfully request that an article from the January, 2000 edition of Sea Power magazine be inserted into the Record, as I believe it accurately and appropriately outlines the existing gap between our commitments and resources, and effectively argues the case for remediying this situation.
CONGRESSIONAL RECORD—SENATE

March 27, 2000

The Navy's fleet of nuclear-powered attack submarines is the most survivable leg of the U.S. strategic-deterrent “triad” of SSBNs, manned bombers, and intercontinental ballistic missiles. There are now 18 Trident SSBNs in the active fleet, but only 14 are likely to be needed in the future. The proposed conversion into an SSGN (nuclear-powered guided-missile submarine) configuration of the four SSBNs now slated for deactivation and the completion of the Navy’s overall power-projection capabilities and compensate to some extent for current deficiencies in surface combatants. Perhaps the most critical fleet inventory is the Aegis guided-missile cruisers and destroyers that played such a key role in the Gulf War and in several low-scale combat actions since then. This combat-proven effectiveness of the Aegis fleet has made it a strong candidate to serve as the principal building block for the national-missile-defense system favored by Congress and likely to be built in the first decade of the new century.

Navy aircraft and weapon systems also are the most sophisticated in the world. Because of the continued underfunding in procurement and acquisition, however, all of these fleet assets have been considerably overworked, a spare parts shortage has developed, and the maintenance workload has increased significantly.

The U.S. Marine Corps has changed commands and its proud tradition of always being “the most ready when the nation is least ready.” That mandate from Congress is more than a slogan, it is in service to the nation. The Corps has suffered, therefore, and there has been a slow but steady degradation of combat readiness—well-publicized in recent months by the House Armed Services Committee.

All of the nation's armed services are in a reasonable state of readiness, but the operating tempo is the highest it has ever been in peacetime, and most deployments in the past several years have been for humanitarian and peacemaking assignments rather than for combat missions. Training has suffered, therefore, and there has been a slow but steady degradation of combat readiness—well-publicized in recent months by the House Armed Services Committee.

Under former commandant Gen. Charles C. Krulak the USMC's senior leaders developed a “gapp” strategy that leaves one or more of these mission areas vulnerable to a cascading failure of the field in a fairly short time, perhaps as little as a few weeks or months at a time. In today’s fast-paced era of naval warfare, the Navy League said last year, the gapping strategy poses—the Navy has had to adopt a “gap-Downloaded from www.congress.gov on 2023-11-20 16:44:08.
funded, would permit an orderly and cost-effec-
tive replacement of the United States on the
other assets over a period of years. Failure of
the executive and legislative branches of
government to support and fully fund that
plan would cripple the Coast Guard’s contin-
ued effectiveness that would cost the Amer-
ican people in numerous ways.

Even today, very few Americans realize how
dependent the United States is on the U.S.-flag
Merchant Marine for national defense and
its continued economic well-being. In
times of war or international crises that
might require the shipment of vital or scarce
weapons, supplies, and equipment needed by
U.S. forces overseas must be carried by
ship—usually over thousands of miles of
ocean. It would be military folly to rely on
foreign-flag shipping to carry that cargo.

Most innovations in the maritime indus-
tries in the post-WWII era—e.g.,
containerization, LASH (lighter aboard ship)
vessels, and RO/ROs (roll-on/roll-off ships)—
have been of American origin, and the
United States is by far the greatest trading
country in the world. Literally billions of
U.S. jobs, and billions of tax dollars, are
generated by the import and export of raw
materials and finished products into and out
of U.S. ports.

The port infrastructure itself is badly in
need of renovation and modernization,
however. Because of short-sighted laissez-
faire economic policies, U.S.-flag ships today
carry only a minor fraction of America’s
two-way foreign trade. The result is the loss
of thousands of seafaring jobs, significantly
reduced U.S.-flag lift capacity, and a Mer-
chant Marine that is now in extremis.

The creation of the Maritime Security Pro-
gram was a helpful first step toward recov-
ery, but in many years, decades before the U.S.-flag fleet can regain its
traditional title as “the vital Fourth
Arm” of national defense.

Additional funding, and a larger force
structure, will resolve or at least ameliorate
some of the most difficult problems now fac-
ing the nation’s armed services, not only in
procurement and operations, but in recruit-
tment, and (evaluation) but also in readi-
ness. More and better equipment, combined
with a lower operating tempo and higher pay,
will be a salutary effect on both recruiting and retention.

There are more intractable problems,
though, that all the money in the world will
not resolve—and that should be of major
concern not only to the nation’s armed ser-
vices and defense decision makers, but to all
Americans. The most difficult and most ob-
vious of these problems is the proliferation
in recent years of weapons of mass destruc-
tion (WMDs), and the means to deliver them.
There already are a dozen or more nations—
several of them extremely hostile to the
United States—that already possess (or are
close to acquiring) more destructive power
than was unleashed by all the armies and
navies in the world during World War II.

It can be taken for granted that WMDs
soon will be available to terrorist groups as
well. But what is even more alarming is the
near total absence of any specific concerns
in the United States nor the so-called “global community”
at large will take the probably draconian steps that would be needed to counter this
unprecedented threat. Not that it is, until
weapons of mass destruction are actually
used by terrorists. The only real question
here is not “if,” but “when.”

There are, of course, other problems,
other defense issues of transcendent impor-
tance that must be attended to at the start
of this new century and new millennium.
Defense and national security problems in
China as well. The mentally unbalanced
military adventurerism of the leaders of North
Korea, the list could go on and on.

Quite possibly, the greatest threat to world
peace, though, are American complaci-
cy and American lethargy. The history of
the 20th century shows that, once aroused
and activated, the American people can
and will unite to defeat any enemy, no matter
how long it takes or how much it costs. That
history also shows, though, that it takes more
than occasionally and passively to unite the
American people. It takes sudden and painful
shocks.

The problem here is that, in the past,
the nation always had time to recuperate from
its initial losses, and even from a Pearl Har-
bor. That may no longer be the case. There
is now a bipartisan consensus that the
United States should build and deploy a na-
tional-mission-defense (NMD) system as soon
as “practicable.” If that consensus had ex-
isted seven years ago, today might not be so
urgent. As it is, relatively few Americans realize that the United States is
still absolutely vulnerable to enemy missile
attacks. It is tactically impossible that not
one U.S. missile-defense system has yet been
deployed that could shoot down even one in-
coming enemy missile. That is a sobering
thought.

The old axiom says that leadership “begins
at the top.” But in a democracy that is not
entirely true. If the American people demand
a certain course of action loud enough and
long enough, the elected “leaders” in the ex-
ecutive and legislative branches of govern-
ment almost always will follow. But in the
field of national defense the American people
have demanded very little in recent years,
and, with a few notable exceptions, that is
exactly what they have been provided.

In his prescient “Prize Essay” (The Foun-
dation of Naval Policy) in the April 1934
Naval Institute Proceedings, Lt. Wilfred J.
Holmes argued persuasively that the size of
the fleet (and, by implication, the size and
composition of all national/military forces)
should always be consistent with national
interests and, most importantly, with the size of navies of similar powers
needed to meet the needs of external [i.e., national] pol-
ic or, conversely, to adjust external na-
tional policy to the strength of the military
fleet—hastily if necessary to dis-
aster,” Holmes said. At the 1922 Limitation of Armaments conference, he noted, the
United States “relinquished naval primacy in
the interests of worldwide limitations of
armaments.” Unfortunately, though, “the
retribution in [U.S.] naval strength was
not followed by retribution in the field of
national policy.”

The circumstances are not exactly the
same today—but they are close enough.
The current operating tempo, for all of the na-
tion’s armed services, is the highest it has
ever been in peacetime. Commitments have
been increasing annually, without commen-
surate increases in funding. Ships, aircraft,
and weapon systems are wearing out—and
so are our military personnel. The “gapping”
of aircraft carriers in areas of potential crisis is
a sore spot, and, if not corrected, an increa-
sively represents culpable negligence on the part of
America’s defense decision makers.

Eventually, a very high price will have to
be paid for years of years of want-ful, for
massive underfunding of the nation’s armed
forces, and for the con-

flicted mismatch between commitments and resources. The consequences are
much more likely than later—it may well be
the darkest day in this nation’s history.

Is there still time to reverse course? Per-
haps. But not much time. American leadership
may well have to come not from those who
hold high office in Washington, but from the
American people themselves.

To provide that leadership, there
will indeed be another American century. It
will not be another century of violence, but
of peace.

Peace on earth, for all mankind.

JOHN MCCAIN, AN AMERICAN
HERO

Mr. CLELAND, Mr. President, I want
to take this opportunity to salute my dear
friend and colleague, the distin-
guished Senator from Arizona, JOHN
MCCAIN. Although he has suspended his
campaign for President, he should
nonetheless know that he has scored a
great victory in American electoral
politics. More so than any other can-
didate in recent memory, Senator McCa-
in has beaten two of the greatest
enemies facing our nation in the
twenty-first century—apathy and cynicism.
We should all be grateful to
him for reminding Americans that
“politics” is not a dirty word, that
campaigns can be about more than
30 sound bytes and that heroes
still exist. We in the Senate should all
feel proud to call him one of our own.

I think I and the four other Vietnam
veterans in the Senate feel a particular
kinship with Senator McCa-
in, for obvious reasons. You do not
an experience like combat without being
profundely affected. You recognize
change in yourself when you come
home, and you recognize it in others
when you meet them for the first time.
You are brothers. We are brothers. But
why did the rest of America respond to
Senator McCain so strongly? Why did
the “Straight Talk Express” appear
every night on the evening news? Why did
so many people want to see Luke
Skywalker emerge out of the Death
Star?

I believe it is because JOHN McCa-
IN reacts to challenges the way we wish
we would ourselves, but fear we might
not. He remained in the Hanoi Hilton
for seven years with his fellow P.O.W.’s
even when he could have left. He fights
for campaign finance reform, for strong
action to reduce youth smoking, and
for curbs in pork barrel spending even
when he knows it will make him un-
popular with his party. He shoots from
the hip. He tells reporters how he real-
ly feels. He loves his family.

He is not perfect, but none of us are.
And I disagree on many issues, but
we agree on this: that the purpose of
politics is to generate hope, that serv-
ing our country—as a soldier or a sail-
or or a Senator—is the greatest honor
of a person’s life, and that, in the
words of Babe Ruth, “It’s hard to beat
a person who won’t quit.”

For myself, I am a loyal
Democrat who strongly supports the
 candidacy of AL GORE. But as an Amer-
ican and as a fellow Vietnam veteran, I
am proud of the work JOHN has done, and will no doubt continue to do, in restoring the public's faith in their government and the political process.

Mr. President, JOHN McCAIN is an authentic American hero, and I am proud to serve along side him.●

HEROES OF THE STORM

● Mr. CLELAND. Mr. President, it is with great pride that I come before my colleagues today to pay tribute to the many brave Georgians who pulled together to support one another in the aftermath of the devastating tornadoes that hit Southwest Georgia earlier this month. In the pre-dawn hours of Valentine's day, February 14th, the town of Camilla, Georgia was hit by a series of brutal tornadoes that took the lives of nearly twenty people. This storm caused not only terrible damage—destroying homes, farms and businesses—but it tested the limits of residents across the Southwest portion of the state. It has been said that "poor is the nation to her enemies. Poor is the nation which has them, but forgets." When the storm calmed, true heroes emerged and they should be recognized.

I ask that I may be able to insert into the Congressional Record a list of individuals, organizations, and area businesses that made all the difference in preparing the people of Mitchell, Grady, Colquitt, and Tift counties for recovery from this tragic event. This list reflects only a portion of the many groups and individuals who reached out to our communities in their time of need. There are others who are often lost in the shuffle, whose movements and actions did not attract the media's spotlight. From the children who donated their own toys, to the families who reached into their savings, to the people who opened their doors for relatives or strangers who needed a place to find refuge. The people and groups mentioned in this insert are not well known. These are everyday people—everyday Georgians. Individually, they each make a small contribution, collectively they make a tremendous difference.

The list follows:

Governor Roy Barnes and the Georgia Legislature; Law Enforcement officials from Mitchell, Colquitt, Tift, and Grady Counties; Chatham County Emergency Management; Mitchell County Community Response Team; Mitchell County Chamber of Commerce; Calhoun County Public Works; C-E Minerals Inc. in Andersonville; Mitchell County Ministerial Alliance of Camilla; Lions Club; Search and rescue teams from Albany/Dougherty, Macon, Colquitt, and Worth Counties; United States Marine Corps; MCLB Fire and Rescue; Georgia K-9 Rescue Worth Counties; United States Marine Corps; Albany/Dougherty, Macon, Colquitt, and Tift counties for Mitchell, Colquitt, Tift, and Grady counties; Mitchell County Community Response Team; County Line Church of Macon; Plainfield Baptist Church; Turner County Special Services School; United Methodist Mission Volunteers from Tallahassee, Florida; United Methodist Church, Ebenezer UNC, and Macon Methodist Church; Griffin Church; Chapel Wood United Church of Athens; Zion Hill Baptist Church of Atlanta; Antioch Baptist Church, North Atlanta; County Line Church of Macon.

Waukeenah Methodist Church of Cairo; Calvary Baptist Church; First Baptist of Tifton; Beulah Baptist Church of Camilla; First United Methodist Church of Camilla; First United Methodist Church of Camilla; East Pelham Baptist Church; First Baptist Church of Camilla; First Baptist Church of Columbus; South Baptist Group of Georgia; Union Baptist Church of Camilla; and First United Methodist Church of Thomson.

TRIBUTE TO THE NATIONAL EXCHANGE CLUB'S 89TH ANNIVERSARY

● Mr. GRAMS. Mr. President, I rise today to commend an organization that has given consistently to our communities over the past 89 years. I am proud to honor the National Exchange Club—an organization that can be characterized by the word "service"—which celebrates the anniversary of its founding.

The National Exchange Club is a volunteer group of men and women dedicated to serving their communities. Founded in 1911 by Charles A. Berkey, the organization has grown from a single group in Detroit, Michigan to nearly 1,000 clubs and 33,000 members throughout the United States and Puerto Rico. In my home state of Minnesota, there are more than 20 clubs committed to making our state and nation a better place to live.

In keeping with its rich history of helping others, the Exchange Club has established Child Abuse Prevention as its national project. By utilizing a wide array of educational programs, local heroes work to increase awareness of child abuse and develop relationships with parents to counter abuse. This program has helped more than 140,000 children since 1979.

Exchange members participate in a variety of other services, such as Youth Programs and Americanism. The Exchange Club's variety of youth programs encourage and recognize students who display good citizenship, community involvement, and scholastic achievement, and serve as volunteers. Clearly, its efforts are shaping the development of our nation and America's efforts spread pride in our nation and work to foster an awareness of the wonderful freedoms with which our country is blessed.

The numerous other community service activities the National Exchange Club undertakes are focused on helping the largest number of citizens as possible in their respective communities. All individuals in a community benefit from the club's crime and fire prevention efforts, its Book of Golden Deeds Award, and the Service to Seniors program.

For 89 years, the volunteers of the National Exchange Club have dedicated themselves to the betterment of our communities and have been an applause team on their achievements and wish them a prosperous future.●

TRIBUTE TO MR. THOMAS BRASHER UPON HIS RETIREMENT FROM THE U.S. POSTAL INSPECTION SERVICE

● Mr. Breaux. Mr. President, I rise today to pay tribute to Thomas D. Brasher, a native of my home state of Louisiana, who will be retiring at month's end after a thirty-five-year career in law enforcement, including thirty years as a postal inspector with the U.S. Postal Inspection Service. At the time of his retirement, he will be sixth in seniority among the nation's 2,115 postal inspectors. Although a native of Alexandria, Louisiana, Mr. Brasher has worked with the U.S. Postal Inspection Service in California.

Tom Brasher began his law enforcement career in Lafayette, Louisiana, in 1961, when he joined that city's auxiliary police force while attending the University of Southwestern Louisiana. He became a regular officer in 1965 and worked in patrol. He joined the Louisiana State Police in 1966, where he worked until 1970 when he was recruited by the Postal Inspection Service.

Mr. Brasher's Inspection Service career was in the San Francisco Division, now the Northern California Division. Except for a four-year stint in San Francisco, he worked his entire career in San Jose. Mr. Brasher was primarily involved in investigating external crimes and was the first External Crimes Prevention Specialist for the division. He covered all of seven states and the Pacific Islands in that assignment. He also had assignments in child pornography, embezzlements, and the monitoring of the design and construction of post offices. He also served as an ad-hoc EEO counselor for a four-di

division area. His last assignments have been on the San Jose External Crimes Team, the San Francisco Bay Area Violent Crimes Team, the Northern
California Workplace Violence Team and a detail to the Postal Service’s robbery task force.

While Mr. Brasher will retire, his wife, Gay Ann, an award-winning school teacher in San Jose, will continue her teaching career. Together they will continue their travels, which so far have taken them to 94 countries around the world.

I know I speak for my Senate colleagues when I wish Tom and Gay Ann Brasher all the best in this new phase of their lives and thank him for thirty years of distinguished service to the United States of America.

LOUISIANA BUSINESS LEADER BILL RAINNEY TO RETIRE

Mr. BREAUX. Mr. President, I rise today to honor longtime Baton Rouge business and community leader Bill Rainney, site manager of ExxonMobil’s Baton Rouge Chemical Plant. Bill is retiring at the end of this month after a 33-year Exxon career that began at the company’s Baton Rouge Refinery in 1966.

Those of us in government who spent parts of our careers in Baton Rouge recognize Bill Rainney as one of the most tireless community leaders and effective problem solvers in the Louisiana capital. Bill’s leadership in the community and direction of ExxonMobil’s philanthropic works will be hard to replace and the company’s more than 4,000 employees in Baton Rouge will miss his steady hand on the ExxonMobil rudder.

A native of Auburn, Alabama, Bill earned a bachelor’s degree in chemical engineering from Auburn University in 1966 before embarking on his Exxon career. He left Baton Rouge in 1973 for a three-year stint in Exxon USA’s Houston headquarters but returned to the Refinery in 1976 to accept the first of many management positions in Baton Rouge. In 1985, he became manager of the Exxon Research and Development Laboratories (ERDL) in Baton Rouge before returning to the Refinery as mechanical manager in 1988.

Like many of Exxon’s top performers around the world, he was called to Valdez, Alaska in 1989 where he served as operations manager for Exxon’s oil spill recovery and cleanup operations. In 1992, he was named manager of the Baton Rouge Refinery, where he served with distinction until moving up Scenic Highway to the adjacent Baton Rouge Chemical Plant as site manager in 1996.

While moving up the ranks to ExxonMobil’s two top positions in Baton Rouge, Bill also moved up the ranks in almost every industry and charitable organization in which he was involved. He is a member of the board of directors and the executive committee of the Louisiana Chemical Association and has served with distinction as chairman of the board of directors of the Louisiana Chemical Industry Alliance since 1996. While refinery manager, he served on the board of directors of the Louisiana MidContinent Oil and Gas Association and provided outstanding leadership to that organization’s initiatives and responses to various legislative proposals over the years.

One of the organizations that will miss Bill the most is the Capital Area United Way, which he served as board chair in 1996-97. ExxonMobil’s annual combined corporate and employee and annuitant contribution of more than $1 million makes it the largest United Way supporter in the state and says volumes about his leadership of that essential and worthwhile effort.

Bill also serves as a member of the board of directors of the Greater Baton Rouge Chamber of Commerce and the Partnership for Excellence Board of LSU’s E.J. Ourso College of Business Administration and as co-chair of Community Action for Children.

Among Bill’s many awards are the 1998 Alumni Recognition Award for Community Services from the LSU School of Social Work and the 1998 Volunteer CEO of the Year Award from the Volunteer Baton Rouge Corporate Volunteer Council.

Probably Bill’s most notable accomplishment since arriving in Baton Rouge 33 years ago, though, was discovering his lovely wife, the former Emilie Steffek of Baton Rouge, and with her raising their three sons—Will, 29; Chase, 27; and Kyle, 25—all of whom make their homes in Baton Rouge. I know that Bill and Emilie will continue to be active in their efforts to help others and I hope to be able to call on Bill from time to time as oil and gas or petrochemical industry issues critical to our state.

Bill is a frequent visitor to Washington and I know the entire Louisiana delegation joins me in wishing both him and Emilie a long and happy retirement.

One remarkable aspect of this program is that it demonstrates the importance of community involvement in our local schools. From this program, students will not only have an appreciation for the fine arts, but they will also have an appreciation for police officers and have a greater sense of community. I applaud the work of Captain Burke and wish his students the best of luck in producing their first play. Thank you to Captain Burke, and to all the members of the Everett Police Command staff for your contributions to local elementary schools.

PALADIN DATA SYSTEMS SUPPORT OF THE WEST SOUND CONSORTIUM

Mr. GORTON. Mr. President, when I travel across Washington state, one of
Mr. JOHNSON. Mr. President, I rise today to recognize Dr. Wayne S. Knutson, a distinguished member of the arts community. On December 11, 1999, the University of South Dakota renamed Theatre I of the Warren M. Lee Center for the Fine Arts in Dr. Knutson's honor. This is an honor he richly deserves.

Dr. Knutson has had a distinguished career as an educator, artist, and administrator at the University of South Dakota and in the state arts community over the past fifty years. His tenure at USD began in 1952 as Professor of Speech and Dramatic Art and Director of University Theatre. Subsequently, he has also held the positions of Professor and Chair of the Department of English (1966–1971), Dean and Professor of Fine Arts (1972–1980), Vice-President for Academic Affairs and Professor of Fine Arts (1980–1982), and Professor of English and Theatre (1982–1986). In 1987, Dr. Knutson was appointed by the South Dakota Board of Regents as the first University Distinguished Professor.

As a member of the arts community, he has also served on the Literature Panel of the National Endowment for the Arts (1975–1977) and as cochairperson of both the South Dakota Arts Council (1971–1978) and the South Dakota Humanities Council (1989–1991). Dr. Knutson's honors include a Distinguished Service Award from the Speech Communication Association of South Dakota, the Governor's Award for Distinction in the Arts, the Burg-Shaw Foundation Award, a South Dakota Arts Council Senior Fellowship for Play Direction, and an award for Outstanding Achievement in the Humanities from the South Dakota Humanities Council.

In addition to his instrumental work as a professor and an actively involved member of the arts community, Dr. Knutson is also an accomplished author, director, and playwright. He wrote “The Dakota Descendants of Ola Rutland” and “Dream Valley”, as well as a number of articles on theatre for Dramatics magazine and a short history of the University of South Dakota. He has directed over sixty-five plays and musicals for USD, the Black Hills Playhouse, Lewis and Clark House, Pierre Players, Lewis and Clark Downtown Theatre, and the Group Theatre of Rapid City. He has also written ten plays and opera librettos, one of which was aired on Voice of America.

Mr. President, Dr. Knutson has a immensely enriched life in South Dakota and the honor of having Theatre I at USD renamed the “Wayne S. Knutson” is one he highly deserves. He has been an extraordinary pioneer and supporter of the arts in the state. As a man of great scholarship and knowledge, and will continue to shape the arts community for years to come. It is an honor for me to share the accomplishments of Dr. Wayne S. Knutson with my colleagues and to publicly commend him on his talent and commitment to the arts and education.

Mr. JOHNSON. Mr. President, I rise today to publicly commend Girl Scout Troop 290 of Yankton, South Dakota. The girls of Troop 290 have worked especially hard this last year, donating their time and energy to the community. Their wonderful efforts have enhanced the lives of many unfortunate South Dakotans at Christmas and Thanksgiving, to assist the community’s elderly, to aid impoverished people in Haiti, and to undertake many other key projects. They have had a very important positive impact in the world around them.

Sadly, on November 24, 1999, Brianne Cox, a member of Troop 290, was killed in a tragic accident. She was active not only in Scouts, but also enjoyed soccer, softball, dance, violin, trumpet, cross country, basketball, and many other activities. This young lady had a wonderful spirit that touched everyone who knew her.

In her name, the Troop 290 scouts have undertaken a very special project. These wonderful girls want to keep Brianne’s memory alive and stay close to her family. To this end, they hold a fundraiser every summer to raise money for the ‘Brianne Cox Memorial Fund’. This effort, in the name of a special girl, will designate funds to other middle school students who wish to participate in the many activities Brianne enjoyed, and who otherwise could not afford it.

Mr. President, these girls are true examples of charity and goodness. Their work to elevate the spirit of their hometown is inspiration in itself, but added to their work to keep Brianne Cox’s memory alive, is truly extraordinary. I am pleased to be able to share their story with my colleagues and to be able to publicly commend their work.
Mr. ABRAHAM. Mr. President, on March 31, 2000, the Saginaw County Commission on Aging will hold a luncheon honoring four women who have selflessly dedicated a significant amount of their time and energy to improving the community of Saginaw, Michigan. Their tremendous efforts over the years have not only touched a great many lives, they have truly changed lives, whether by providing those in need with food and clothing, saving seniors hundreds of dollars in medical insurance payments, mentoring elementary school students, or helping people to understand and accept a culture different from their own. Thus, I rise today on behalf not only of myself, but also of the entire Saginaw County, Michigan, community, to sincerely thank Ms. Hazel Wilson, Ms. Mary Flannery, Ms. Sue Kaltenbach, and Ms. Yoko Mossner for their incredible efforts.

Ms. Mary Flannery has been a resident of Saginaw, Michigan, long enough to remember that an ice cream cone once cost a mere three cents there. For many years, she was an employee of the Saginaw County Medical Co-operative, and continues to volunteer her time at the Commission on Aging. She volunteers at the Saginaw Public Schools and is a member of the Saginaw Township Community Mental Health Authority as a Prevention Coordinator.

Ms. Wilson demonstrated her outstanding leadership capabilities, and indelibly left her mark on the Saginaw community, when in the early 1970s she established the Good Neighbors Mission. Ms. Wilson’s original goal in establishing this organization was to provide needy families with food and clothing. But because of her dedication the Good Neighbors Mission has continued to grow, to the point where today it stands as a community resource center, a hub of activity, and, I am told, a virtual clearinghouse, where people can find help fulfilling much more than just their food and clothing needs.

Aside from working as a Prevention Coordinator, Ms. Wilson is also currently a member of the Zion Baptist Church, Zeta Phi Beta sorority, the Michigan T.A.G. Workgroup, and the Michigan Prevention Association. I take great pride in recognizing community-oriented constituents like Ms. Wilson, and I applaud the Saginaw County Commission on Aging for ensuring that her efforts are not overlooked. On behalf of the United States Senate, I extend gratitude to Ms. Wilson for her dedication and work for her community.

THE SAGINAW COUNTY COMMISSION ON AGING HONORS MS. MARY FLANNERY

Mr. ABRAHAM. Mr. President, on March 31, 2000, the Saginaw County Commission on Aging will hold a luncheon honoring four women who have selflessly dedicated a significant amount of their time and energy to improving the community of Saginaw, Michigan. Their tremendous efforts over the years have not only touched a great many lives, they have truly changed lives, whether by providing those in need with food and clothing, saving seniors hundreds of dollars in medical insurance payments, mentoring elementary school students, or helping people to understand and accept a culture different from their own. Thus, I rise today on behalf not only of myself, but also of the entire Saginaw County, Michigan, community, to sincerely thank Ms. Hazel Wilson, Ms. Mary Flannery, Ms. Sue Kaltenbach, and Ms. Yoko Mossner for their incredible efforts.

Ms. Mary Flannery has been a resident of Saginaw, Michigan, for thirty-seven years. During this time, she has served the Saginaw Township Community School Board in many ways: as president, vice president, secretary and treasurer. She was also once president of the Saginaw County School Board Association, a vice president of the Assistance League of Saginaw, president of the Saginaw County Lawyer’s Auxiliary. In addition, Ms. Kaltenbach served the Junior League of Saginaw Valley as a corresponding secretary and the Street Smarts Investment Club as a member.

Ms. Kaltenbach has been a mentor at Coulter Elementary School since 1996, as part of the H.O.S.T.S. program. She participates on the Election Scheduling Committee for Saginaw County, and is involved with numerous educational programs dealing with art, literature, drug abuse prevention and law related education. She is also chairperson of Family in Action, a former member of the Christian Service Commission and the Paris Council and a member at St. Stephen’s Church.

Perhaps the most remarkable thing about Ms. Kaltenbach is that she has managed to do all of this while placing her primary focus upon raising her own three children. Mr. President, on behalf of the entire United States Senate, I applaud Ms. Sue Kaltenbach for her outstanding contributions to her community.

THE SAGINAW COUNTY COMMISSION ON AGING HONORS MS. YOKO MOSSNER

Mr. ABRAHAM. Mr. President, on March 31, 2000, the Saginaw County Commission on Aging will hold a luncheon honoring four women who have selflessly dedicated a significant amount of their time and energy to improving the community of Saginaw, Michigan. Their tremendous efforts over the years have not only touched a great many lives, they have truly changed lives, whether by providing those in need with food and clothing, saving seniors hundreds of dollars in medical insurance payments, mentoring elementary school students, or helping people to understand and accept a culture different from their own. Thus, I rise today on behalf not only of myself, but also of the entire Saginaw County, Michigan, community, to sincerely thank Ms. Hazel Wilson, Ms. Mary Flannery, Ms. Sue Kaltenbach, and Ms. Yoko Mossner for their incredible efforts.

Ms. Yoko Mossner has played a leading role in finding Japanese culture a place in Saginaw County. For the last six years, she has
served as volunteer director for the Japanese Cultural Center and Tea House, a project that was made possible by her efforts as a member of the Board of Trustees of the Saginaw County Building Fund Committee. She also serves as Special Envoy and Liaison Officer from Saginaw to its Sister City, Tokushima, Japan. Undoubtedly, her efforts in this regard have played a significant role in expanding the cultural awareness of an entire community.

Perhaps the most remarkable thing about Ms. Mossner is that she has managed to do all of this while placing her primary focus upon raising her own three children. Mr. President, on behalf of the entire United States Senate, I applaud Ms. Mossner for her dedication to expanding the cultural knowledge in Michigan. I am sure that the effects of her work are immeasurable.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, 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 withdrawals and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO THE TOTAL INDEPENDENCE OF ANGOLA (UNITA)—MESSAGE FROM THE PRESIDENT—PM 96

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

As required by section 1765(e)(6) of the Cuban Democracy Act of 1992, 22 U.S.C. 6004(e)(6), as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, Public Law 104–114, 110 Stat. 785, I transmit herewith a semiannual report “detailing payments made to Cuba as a result of the provision of telecommunications services” pursuant to Department of the Treasury specific licenses.

William J. Clinton.


MESSAGE FROM THE HOUSE

At 1:05 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:


MEASURE REFERRED

The following concurrent resolution was read and referred as indicated:


MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2284. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 2285. A bill instituting a Federal fuels tax holiday.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 2366. An act to provide small business certain protections from litigation excesses and to limit the product liability of non-manufacturer product sellers.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-8146. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Technical Corrections to Customs Forms” (T.D. 00–12), received March 23, 2000, to the Committee on Finance.

EC-8149. A communication from the General Counsel for Regulatory Law, Department of the Treasury, transmitting a draft of proposed legislation entitled “Custums Automation Modernization Act of 2000”, to the Committee on Finance.

EC-8151. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, pursuant to law, the report of a rule entitled “Fringe Benefits Aircraft Valuation Formula” (Rev. Rul. 2000–13), received March 22, 2000, to the Committee on Finance.

EC-8152. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Tax Treatment of Cafeteria Plans” (RIN 1545–AX58), received March 23, 2000, to the Committee on Finance.

EC-8153. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation entitled “Medicare Modernization Act of 2000”, to the Committee on Finance.

EC-8154. A communication from the Acting Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting a draft of proposed legislation entitled “Melrose Range and Yakima Training Center Transfer Act”; to the Committee on Energy and Natural Resources.

EC-8155. A communication from the Deputy Assistant Administrator, Office of Diversification, Drug Enforcement Agency, Department of Justice transmitting, pursuant to law, the report of a rule entitled “Schedules of Controlled Substances: Addition of Gamma-Hydroxybutyric Acid to Schedule I” (DEA–200F), received March 23, 2000, to the Committee on the Judiciary.

EC-8154. A communication from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled “Backup Power Sources for DOE Facilities” (DOE–200F), received March 23, 2000, to the Committee on Energy and Natural Resources.

EC-8155. A communication from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled “The DOE Corporate Lessons Learned Program” (DOE–STTD 7501–99), received March 23, 2000, to the Committee on Energy and Natural Resources.
EC-8197. A communication from the Chair- 
man of the Council of the District of Colum-
bia, transmitting, pursuant to law, a report on D.C. Act 13–287, “Long-Term Care Insur-
ance Act of 2000”; to the Committee on Gov-
ernment Affairs.

EC-8198. A communication from the Chair-
man of the Council of the District of Colum-
bia, transmitting, pursuant to law, a report on D.C. Act 13–288, “Tax Conformity Tem-
porary Act of 2000”; to the Committee on Gov-
ernment Affairs.

EC-8199. A communication from the Chair-
man of the Council of the District of Colum-

EC-8200. A communication from the Chair-
man of the Council of the District of Colum-

EC-8201. A communication from the Chair-
man of the Council of the District of Colum-
bia, transmitting, pursuant to law, a report on D.C. Act 13–291, “University of the Dis-
trict of Columbia Board of Trustees Resi-
dency Requirement Amendment Act of 2000”; to the Committee on Government Affairs.

EC-8202. A communication from the Asso-
ciate Administrator, Agricultural Marketing 
Service, and Vegetables Programs, De-
partment of Agriculture transmitting, pur-
suant to law, the report of a rule entitled “Avocados Grown in South Florida; Relax-
ation of Container and Pack Requirements” (Docket Number FV00–915–1 FRL), received March 23, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8203. A communication from the Asso-
ciate Administrator, Agricultural Marketing 
Service, and Vegetables Programs, De-
partment of Agriculture transmitting, pur-
suant to law, the report of a rule entitled “Nectarines and Peaches Grown in Cali-
fornia; Revision of Handling Requirements for Fresh Nectarines and Peaches” (Docket Number FV00–916–1 FRL), received March 23, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8204. A communication from the Direc-
tor, Office of Regulatory Management and Information Policy, Planning and Eval-
uation, Environmental Protection Agen-
cy, transmitting, pursuant to law, the report of a rule entitled “Dichlorid: Time-Limited Pesticide Tolerances” (FRL # 6486–7), re-
ceived March 23, 2000; to the Committee on Agriculture, Nutrition, and Forestry.
by working men who left their jobs for active military duty. Nationwide, six million women entered the WWII Home Front workforce, which also provided unprecedented opportunities for minorities.

I am proud to offer this legislation to commemorate these invaluable contributions to the U.S. victory in World War II, and I urge my colleagues to support this bill.

Mr. CRAPO. Mr. President, I rise today to introduce legislation to authorize a national environmental grants program for small communities called Project SEARCH.

The Project SEARCH (Special Environmental Assistance for the Regulation of Communities and Habitat) concept is based on a demonstration program that has been operating with great success in Idaho in 1999 and 2000. In short, the bill establishes a simplified application process for communities of under 2,500 individuals to receive assistance in meeting a broad array of federal, state, or local environmental regulations. Grants would be available for initial feasibility studies, to address unanticipated costs arising during the course of a project, or when a community has been turned down or underfunded by traditional sources. The grant program would require no match from the recipients.

Some of the major highlights of the program are:

A simplified application process—no special grants coordinators required.

No unsolicited bureaucratic intrusions into the decision-making process.

Communities must first have attempted to receive funds from traditional sources.

It is open to studies or projects involving any environmental regulation.

Applications are reviewed and approved by citizens panel of volunteers.

The panel consists of volunteers representing all regions of the state; and

No local match is required to receive the SEARCH funds.

Over the past several years, it has become increasing apparent that small communities are having problems complying with environmental rules and regulations due primarily to lack of funding, not a willingness to do so. They, like all of us, want clean water and air and a healthy natural environment. Sometimes, they simply cannot shoulder this financial burden with their limited resources.

In addition, small communities wishing to pursue unique collaborative efforts might be discouraged by grant administrators who prefer conformity. Some have worked on projects for a period and have borrowed and bonded to the maximum. Others are in critical habitat locations and any project may have additional costs, which may not be recognized by traditional funders. So others just need help for the initial environmental feasibility study so they can identify the most effective path forward.

With these needs in mind, in 1996, I was able to secure $1.3 million through the Environmental Protection Agency (EPA) for a demonstration grant program for Idaho’s small communities. Idaho’s program does not replace other funding sources, but serves as a final resort when all other means have been exhausted.

The application process was simplified so that any small town mayor, county commissioner, sewer district chairman, or community leader could manage the application process as a professional grant writer. An independent citizens committee with statewide representation was established to make the selections and get the funds on the ground as quickly as possible. No bureaucratic or political intrusions were permitted.

Although the EPA subsequently insisted that grants be limited to water and wastewater projects, forty-four communities in Idaho ultimately applied, not including two that failed to meet the eligibility requirements. Ultimately, twenty-one communities were awarded grants in several categories, and ranged in size from $9,000 to $319,000. A Native American community, a newspaper, and a community, and several innovative collaborative efforts were included in the successful applicants. The communities that were not selected are being given assistance in exploring other funding sources and other advice.

The response and feedback from all participants has been overwhelmingly positive. Environmental officials from the state and EPA who witnessed the process have stated that the process worked well and was able to accomplish much on a volunteer basis. There was even extraordinary appreciation from other funding agencies because some communities they were not able to reach were provided funds for feasibility studies. The only negative comments were from those who wished that the EPA had not limited the program to water and wastewater projects.

The conclusion of all participants was that Project SEARCH is a program worthy of being expanded nationally. So many small communities in so many states can benefit from a program that assists underserved and often overlooked communities. This legislation provides us the opportunity to help small communities throughout the United States.

Mr. REED, and Mr. LEAHY: S. 2296. A bill to amend title XVIII of the Social Security Act to clarify the definition of homebound with respect to home health services under the Medicare Program; to the Committee on Finance.

THE HOMEBOUND CLARIFICATION ACT

Mr. JEFFORDS, Mr. President, I am here today to introduce the Homebound Clarification Act of 2000. This important bill has been crafted to protect Medicare beneficiaries from a growing problem that is impeding access to vital home care services. I want to recognize my cosponsors, Senator Reed of Rhode Island and Senator Leahy, for their continued effort and dedication to protecting access to home health care.

Federally funded home health care is an often quiet but invaluable part of life for America’s seniors. Medical treatment can often mean being subjected to a strange and unfamiliar environment. For our nation’s elderly, who may have special needs, this inconvenience can be more severe and detrimental to successful recovery. Home health care means that people recovering from surgery can go home sooner—it means that someone recovering from an accident can get physical therapy in their home, it means our seniors can stay at home, and out of nursing homes.

The sooner you can return patients to their homes, the sooner they can recover. The familiar environment of the home, family, and friends is more nurturing to recovering patients than the often stressful and unfamiliar surroundings of a hospital. Home health is also a great avenue for education. It empowers families to assist in the care of their loved ones; their knowledge from human and financial standpoints. But there are some seniors who are being denied access to this smart policy. An individual must be considered “homebound” to qualify for Medicare reimbursement for home health. Though an individual is not required to be bedridden, the condition of the individual should include “a normal inability to leave the home.” Under the current definition, an individual is “homebound” if “leaving the home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent and of short duration, or are attributable to the need to receive medical treatment.” The definition allows for “infrequent” or “short duration,” recognizing that short excursions may be a part of a successful recovery process, but leaves it up to fiscal intermediaries to interpret exactly what number is frequent and how short an absence must be. The clarification of this definition has varied widely.

Sadly, there is a ready supply of disturbing examples of the overzealous
and arbitrary interpretation of the definition. Many seniors have found themselves virtual prisoners in their homes, threatened by the loss of care they need to attend adult day care, weekly religious services, or even visit family members in the hospital. This makes no sense because all of these activities are steps on the road to successful and healthy recovery and, health professionals want patients to get outside for fresh air or exercise, as part of their care plan. This helps fight off depression.

Seniors deserve a more consistent standard to depend upon, rather than a completely arbitrary number of absences from the home. In April 1999, Secretary of Health and Human Services Donna Shalala sent a report to Congress on the homebound definition. The report identifies the wide variety in interpretation of the definition and the absurdity of some coverage determinations that follow. While the Administration unexpectedly stopped short of taking action themselves, Shalala did propose that a clarification of the definition is needed to improve uniformity of determination.

The Homebound Clarification Act states that eligibility of an individual depends on the condition of the patient, how “taxing” it is for the patient to leave home. It strikes the clause that states: “that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment.” This is consistent with the intent of Congress and the Administration. This will not open the door to wider coverage of home health, but rather protect coverage for those who need it.

We ask that seniors put their trust in the Medicare program. We are responsible to make sure that the Medicare program lives up to its promise and that home health will be available to those who need it. Once again, I would like to thank my cosponsors, Senators Reed and Leahy for their work. We look forward to working with the rest of Congress to turn this legislation into law.

By Mr. L. CHAFEE (for himself and Ms. SOWE): S. 2299. A bill to amend title XIX of the Social Security Act to continue State Medicaid disproportionate share hospital (DSH) allotments for fiscal year 2001 at the levels for fiscal year 2000; to be on File:

THE MEDICAID DSH PRESERVATION ACT OF 2000

Mr. L. CHAFEE, Mr. President, I am pleased to be joined today by Senator SOWE in introducing the Medicaid DSH Preservation Act of 2000. This legislation will freeze Medicaid disproportionate share hospital (DSH) allotments for fiscal year 2001 at the levels for fiscal year 2000; thereby mitigating the forthcoming reductions in Fiscal Years 2001 and 2002. This bill will also provide a growth rate adjustment to help compensate for the increases in the cost of providing care to the most needy and indigent patients.

This bill is especially important in light of the Medicare payment reductions in the Balanced Budget Act of 1997 (BBA), federal payments to the Medicaid DSH program were also reduced by $10.4 billion over 5 years, with these reductions being absorbed by States and our Nation’s vulnerable safety net hospitals. Medicaid DSH payments help reimburse hospitals’ costs of treating Medicaid patients, particularly those with complex medical needs. These payments also make it possible for communities to care for the uninsured—a population that is projected to increase considerably during the next few years.

The impact of these financial pressures was not fully anticipated at the time. Clearly, more needs to be done. Financial pressures such as declining Medicaid enrollment have had a significant impact on these safety net hospitals, thereby adding to the rapidly rising number of Americans without health insurance. At a time when our Nation’s uninsured rate continues to climb above 44 million, it makes little sense to be reducing much-needed Medicaid DSH payments to our nation’s safety net hospitals.

Hospitals in Rhode Island will absorb $400 million in reductions as a result of changes made to the Medicare and Medicaid programs in the BBA. Ten out of fourteen hospitals in my State had operating losses in 1999. After the BBA was enacted, it was predicted that cuts in federal Medicare and Medicaid payments would cost hospitals in Rhode Island $220 million over 5 years; however, this estimate has proven to be about $180 million off the mark. Every other State is experiencing similar cuts.

Mr. President, I’ve been working with the Administration to ensure that the necessary reductions in the Balanced Budget Act of 1999 are addressed through subsequent legislation. Since the BBA was signed into law, the American Hospital Association commissioned a study by the Lewin Group, which estimated that there would be $71 billion less paid to hospitals nationwide over 5 years. The original estimate of the impact of the BBA was $15 billion. While the Balanced Budget Refinement Act of 1999 provided some relief to our Nation’s financially strapped hospitals, that relief was targeted to the Medicare program. Clearly, more needed to be done to keep our vulnerable safety net hospitals from continuing on this downward spiral.

This legislation we are introducing today represents a commonsense compromise that will help prevent the further erosion of our Nation’s safety net hospitals and the long-term viability of our country’s health care system. I urge my colleagues to join me in supporting this important legislation because I am confident that the legislation be printed in the RECORD.

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

ADDITIONAL COSPONSORS

S. 59
At the request of Mr. THOMPSON, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 59, a bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes.

S. 210
At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 210, a bill to establish a medical education trust fund, and for other purposes.

S. 512
At the request of Mr. GORTON, the name of the Senator from Washington (Mr. CLELAND) was added as a cosponsor of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.

S. 818
At the request of Mr. DEWINE, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 818, a bill to require the Secretary of Health and Human Services to conduct a study of the mortality and adverse outcome rates of Medicare patients related to the provision of anesthesia services.

S. 873
At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. MILLS) was added as a cosponsor of S. 873, a bill to close the United States Army School of the Americas.

S. 890
At the request of Mr. WELLS, the name of the Senator from California

March 27, 2000 CONGRESSIONAL RECORD—SENATE 3643
(Mrs. Feinstein) was added as a cosponsor of S. 890, a bill to facilitate the naturalization of aliens who served with special guerrilla units or irregular forces in Laos.

S. 931

At the request of Mr. McConnell, the name of the Senator from Connecticut (Mr. Lieberman) was added as a cosponsor of S. 931, a bill to provide for the protection of the flag of the United States, and for other purposes.

S. 1037

At the request of Mrs. Boxer, the name of the Senator from Wisconsin (Mr. Feingold) was added as a cosponsor of S. 1037, a bill to amend the Taxicar Safety Act, to provide for a gradual reduction in the use of methyl tertiary butyl ether, and for other purposes.

S. 1196

At the request of Mr. Helms, his name was withdrawn as a cosponsor of S. 1196, a bill to amend the Elementary and Secondary Education Act of 1965, to reauthorize and make improvements to that Act, and for other purposes.

S. 1280

At the request of Mr. Coverdell, the name of the Senator from Pennsylvania (Mr. Specter) was added as a cosponsor of S. 1280, a bill to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes.

S. 1361

At the request of Mr. Stevens, the name of the Senator from Kentucky (Mr. Bunning) was added as a cosponsor of S. 1361, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, floods, and volcanic eruptions, and for other purposes.

S. 1558

At the request of Mr. Baucus, the names of the Senator from Michigan (Mr. Levin) and the Senator from Virginia (Mr. Robb) were added as cosponsors of S. 1558, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for holders of Community Open Space bonds the proceeds of which are used for qualified environmental infrastructure projects, and for other purposes.

S. 1810

At the request of Mrs. Murray, the name of the Senator from Georgia (Mr. Cleland) was added as a cosponsor of S. 1810, a bill to amend title 38, United States Code, to clarify and improve veterans’ claims and appellate procedures.

S. 1858

At the request of Mr. Breaux, the name of the Senator from Maryland (Mr. Sarbanes) was added as a cosponsor of S. 1858, a bill to revitalize the international competitiveness of the United States-flag maritime industry through tax relief.

S. 1900

At the request of Mr. Lautenberg, the name of the Senator from North Dakota (Mr. Dorgan) was added as a cosponsor of S. 1900, 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. 1938

At the request of Mr. Craig, the name of the Senator from Wyoming (Mr. Enzi) was added as a cosponsor of S. 1938, a bill to provide for the return of fair and reasonable fee to the Federal Government for the use and occupancy of National Forest System land under the recreation program, and for other purposes.

S. 1969

At the request of Mr. Craig, the name of the Senator from Utah (Mr. Hatch) was added as a cosponsor of S. 1969, a bill to provide for improved management of, and increases accountability for, outfitted activities by which the public gains access to and occupancy and use of Federal land, and for other purposes.

S. 2003

At the request of Mr. Johnson, the name of the Senator from Utah (Mr. Bennett) was added as a cosponsor of S. 2003, a bill to restore health care coverage to retired members of the uniformed services.

S. 2018

At the request of Mrs. Hutchison, the names of the Senator from Alabama (Mr. Sessions), the Senator from Nebraska (Mr. Hagel), and the Senator from South Carolina (Mr. Hollings) were added as cosponsors of S. 2018, a bill to amend the Social Security Act to revise the update factor used in making payments to PPS hospitals under the medicare program.

S. 2046

At the request of Mr. Frist, the name of the Senator from Massachusetts (Mr. Kerry) was added as a cosponsor of S. 2046, a bill to reauthorize the Next Generation Internet Act, and for other purposes.

S. 2068

At the request of Mr. Gregg, the names of the Senator from Nevada (Mr. Reid), the Senator from South Carolina (Mr. Thurmond), and the Senator from Oregon (Mr. Smith) were added as cosponsors of S. 2068, a bill to prohibit the Federal Communications Commission from establishing rules authorizing the operation of new, low power FM radio stations.

S. 2070

At the request of Mr. Fitzgerald, the names of the Senator from Indiana (Mr. Bayh) and the Senator from Nevada (Mr. Bryan) were added as co-sponsors of S. 2070, a bill to improve safety standards for child restraints in motor vehicles.

S. 2132

At the request of Mr. Kerry, the name of the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 2132, a bill to create incentives for private sector research related to developing vaccines against widespread diseases and ensure that such vaccines are affordable and widely distributed.

S. 2161

At the request of Mr. Bingaman, the name of the Senator from New Jersey (Mr. Lautenberg) was added as a cosponsor of S. 2161, a bill to amend the Land and Water Conservation Fund Act to provide full funding for the Land and Water Conservation Fund, and to provide dedicated funding for other conservation programs, including coastal stewardship, wildlife habitat protection, State and local park and open space preservation, historic preservation, forestry conservation programs, and youth conservation corps; and for other purposes.

S. 2253

At the request of Mr. Hutchison, the name of the Senator from New Hampshire (Mr. Smith) was added as a cosponsor of S. 2253, a bill to clarify the treatment of nonprofit entities as non-commercial educational or public broadcast stations under the Communications Act of 1934.

S. 2255

At the request of Mr. McCain, the name of the Senator from Oregon (Mr. Wyden) was added as a cosponsor of S. 2255, a bill to amend the Internet Tax Freedom Act to extend the moratorium through calendar year 2006.

S. 2277

At the request of Mr. Roth, the names of the Senator from Alaska (Mr. Murkowski), the Senator from Wyoming (Mr. Thomas), the Senator from California (Mrs. Feinstein), the Senator from Arkansas (Mrs. Lincoln), the Senator from Montana (Mr. Baucus), the Senator from Nebraska (Mr. Hagel), the Senator from Minnesota (Mr. Grams), the Senator from Connecticut (Mr. Lieberman), and the Senator from Kansas (Mr. Roberts) were added as cosponsors of S. 2277, a bill to terminate the application of title IV of the Trade Act of 1974 with respect to the People’s Republic of China.

S. 2322

At the request of Mr. Smith of New Hampshire, the names of the Senator from Arkansas (Mrs. Hutchinson) and the Senator from Oklahoma (Mr. Inhofe) were added as cosponsors of S. 2321, a bill to name the United States Army missile range at Kwajalein Atoll in the Marshall Islands for former President Ronald Reagan.

S. 2324

At the request of Mr. Kennedy, the name of the Senator from Maryland
(Ms. MIKULSKY) was added as a cosponsor of S. 2284, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. CON. RES. 69
At the request of Ms. SNOWE, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Con. Res. 69, a concurrent resolution requesting that the United States Postal Service issue a commemorative postal stamp honoring the 200th anniversary of the naval shipyard system.

S. CON. RES. 98
At the request of Mr. DEWINE, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Nebraska (Mr. HAGEL), and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. Con. Res. 98, a concurrent resolution urging compliance with the Hague Convention on the Civil Aspects of International Child Abduction.

S. RES. 87
At the request of Mr. DURBIN, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. Res. 87, a resolution commemorating the 60th Anniversary of the International Visitors Program.

S. RES. 233
At the request of Mr. SPECTER, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. Res. 233, a resolution to express the sense of the Senate that the Federal investment in biomedical research should be increased by $2,700,000,000 in fiscal year 2001.

S. RES. 271
At the request of Mr. WELLSTONE, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. Res. 271, a resolution regarding the human rights situation in the People’s Republic of China.

CONGRESSIONAL RECORD—SENATE
March 27, 2000
3645

AMENDMENTS SUBMITTED

CONSTITUTIONAL AMENDMENT

PROHIBITING THE DESECRATION OF THE FLAG

McCONNELL (AND OTHERS) AMENDMENT NO. 2890
Mr. McCONNELL (for himself, Mr. BINGAMAN, Mr. BENNETT, Mr. CONRAD, Mr. DORGAN, S. DODD, Mr. TORRICELLI, Mr. BYRD, and Mr. LIEBERMAN) proposed the following amendment to the joint resolution (S.J. Res. 14) proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States; as follows:

SEC. 1. SHORT TITLE.
This Act may be cited as the "Flag Protection and Free Speech Act of 1999".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—
(1) the flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example of freedom unmatched throughout the world;
(2) the Bill of Rights is a guarantee of those freedoms and should not be amended in a manner that could be interpreted to restrict freedom, a course which is regularly resorted to by authoritarian governments which fear freedom and not by free and democratic nations;
(3) abuse of the flag of the United States causes more than pain and distress to the overwhelming majority of the American people and may amount to fighting words or a direct threat to the physical and emotional well-being of individuals at whom the threat is targeted; and
(4) destruction of the flag of the United States can be intended to incite a violent response rather than make a political statement and such conduct is outside the protections afforded by the first amendment of the Constitution.

(b) PURPOSE.—The purpose of this Act is to provide the maximum protection against the use of the flag of the United States to promote violence while respecting the liberties that it symbolizes.

SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.

(a) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:

"§ 700. Incitement; damage or destruction of property involving the flag of the United States

"(a) DEFINITION OF FLAG OF THE UNITED STATES.—In this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and that would be taken to be a flag by the reasonable observer.

"(b) ACTIONS PROMOTING VIOLENCE.—Any person who uses or knowingly converts a flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of the peace, shall be fined not more than $100,000, imprisoned not more than 1 year, or both.

"(c) DAMAGING A FLAG BELONGING TO THE UNITED STATES.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to the United States, and who intentionally destroys or damages that flag, shall be fined not more than 2 years, or both.

"(d) DAMAGING A FLAG BELONGING TO ANOTHER.—Any person who, within any lands reserved for the use of the United States, or under the exclusive or concurrent jurisdiction of the United States, steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to another person, and who intentionally destroys or damages that flag, shall be fined not more than $250,000, imprisoned not more than 2 years, or both.

"(e) CONSTRUCTION.—Nothing in this section shall be construed to indicate an intent on the part of Congress to deprive any State, territory, or possession of the United States, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.'

(2) CLERICAL AMENDMENT.—The analysis for chapter 33 of title 18, United States Code, is amended by striking the item relating to section 700 and inserting the following:

"700. Incitement; damage or destruction of property involving the flag of the United States.'

HOLLINGS (AND OTHERS) AMENDMENT NO. 2890
Mr. HOLLINGS (for himself, Mr. SPECTER, and Mr. REID) proposed the following amendment to the joint resolution, S.J. Res. 14, supra, as follows:

On page 2, line 4, strike beginning with "article" through line 10 and insert the following:

"Articles are proposed as amendments to the Constitution of the United States, either or both of which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within 7 years after the date of submission for ratification:'

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

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

"Section 3. Congress shall have power to implement and enforce this article by appropriate legislation.

"Article —

AUTHORITY FOR COMMITTEE TO MEET

SPECIAL COMMITTEE ON AGING

Mr. GRAMS, Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on March 27, 2000, from 2 p.m.–4:30 p.m. in Dirksen 562 for the purpose of conducting a hearing.

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

PRIVILEGE OF THE FLOOR

Mr. DORGAN, Mr. President, I ask unanimous consent that Theresa Mullin be allowed floor privileges during my speech today.

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

CONTINUATION OF FEDERAL WATER POLLUTION CONTROL ACT REPORTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate
now proceed to the consideration of Calendar No. 324, S. 1730.

The PRESIDING OFFICER. The clerk will report the title.

The legislative clerk read as follows:
A bill (S. 1730) to amend the Federal Water Pollution Control Act to provide that certain environmental reports shall continue to be required to be submitted.
There being no objection, the Senate proceeded to consider the bill.
Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1730) was read the third time and passed, as follows:

S. 1730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. CONTINUATION OF SUBMISSION OF CERTAIN ENVIRONMENTAL REPORTS.

(a) WATER QUALITY INVENTORY.—Section 305(b) of the Federal Water Pollution Control Act (33 U.S.C. 1315(b)) is amended—
(1) in paragraph (1), by striking “Each” and inserting “Notwithstanding section 3003 of Public Law 104-66 (31 U.S.C. 1113 note; 109 Stat. 794), each”; and
(2) in paragraph (2), by striking “The” and inserting “Notwithstanding section 3003 of Public Law 104-66 (31 U.S.C. 1113 note; 109 Stat. 794), the”;
(b) CLEAN WATER NEEDS SURVEY.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375) is amended by striking “The” and inserting “Notwithstanding section 3003 of Public Law 104-66 (31 U.S.C. 1113 note; 109 Stat. 734), the”;
(c) EFFECTIVE DATE.—The amendments made by this section take effect on the earlier of—
(1) the date of enactment of this Act; or
(2) December 19, 1999.

CONTINUATION OF A CLEAN AIR ACT REPORT

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 325, S. 1731.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:
A bill (S. 1731) to amend the Clean Air Act to provide that certain environmental reports shall continue to be required to be submitted.
There being no objection, the Senate proceeded to consider the bill.
Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1731) was read the third time and passed, as follows:

S. 1731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. CONTINUATION OF SUBMISSION OF CERTAIN ENVIRONMENTAL REPORTS.

(a) ATMOSPHERIC DEPOSITION TO GREAT WATERS REPORT.—Section 112(m)(5) of the Clean Air Act (42 U.S.C. 7412(m)(5)) is amended by striking “Within” and inserting “Notwithstanding section 3003 of Public Law 104-66 (31 U.S.C. 1113 note; 109 Stat. 734), within”;
(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the earlier of—
(1) the date of enactment of this Act; or
(2) December 19, 1999.

CONTINUATION OF AN ENDANGERED SPECIES ACT REPORT

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 329, S. 1744.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:
A bill (S. 1744) to amend the Endangered Species Act of 1973 to provide certain species conservation reports shall continue to be required to be submitted.
There being no objection, the Senate proceeded to consider the bill.
Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1744) was read the third time and passed, as follows:

S. 1744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. CONTINUATION OF SUBMISSION OF CERTAIN SPECIES CONSERVATION REPORTS.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the earlier of—
(1) the date of enactment of this Act; or
(2) December 19, 1999.

COMMEMORATING THE 60TH ANNIVERSARY OF THE INTERNATIONAL VISITORS PROGRAM

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 422, S. Res. 87.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:
A resolution (S. Res. 87) commemorating the 60th Anniversary of the International Visitors Program.
There being no objection, the Senate proceeded to consider the resolution.
Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 87) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 87

Whereas the year 2000 marks the 60th Anniversary of the International Visitors Program;
Whereas the International Visitors Program is the public diplomacy initiative of the United States Department of State that brings distinguished foreign leaders to the United States for short-term professional programs under the authority of the Mutual Educational and Cultural Exchange Act of 1961;
Whereas the purposes of the International Visitors Program include—
(1) increasing mutual understanding and strengthening bilateral relations between the United States and other nations;
(2) developing the web of human connections essential for successful economic and commercial relations, security arrangements, and diplomatic agreements with other nations; and
(3) building cooperation among nations to solve global problems and to achieve a more peaceful world;
Whereas during 6 decades more than 122,000 emerging leaders and specialists from around the world have experienced American democratic institutions, cultural diversity, and core values firsthand as participants in the International Visitors Program;
Whereas thousands of participants in the International Visitors Program rise to influential leadership positions in their countries each year;
Whereas among the International Visitors Program alumni are 185 current and former Chiefs-of-State or Heads of Government, and more than 400 alumni have served as cabinet level ministers;
Whereas prominent alumni of the International Visitors Program include Margaret Thatcher, Anwar Sadat, F.W. de Klerk, Indira Gandhi, and Tony Blair;
Whereas a new configuration of domestic forces has emerged which is shaping global policy and empowering private citizens to an unprecedented degree of participation in the United States and other nations;
Whereas each year more than 80,000 volunteers affiliated with 97 community-based member organizations and 7 program agency members of the National Council for International Visitors across the United States are actively serving as “citizen diplomats” organizing programs and welcoming International Visitors Program participants into their homes, schools, and workplaces;
Whereas all of the funds appropriated for the International Visitors Program are spent in the United States and such spending leverages private contributions at a ratio of 1 to 12;
Whereas the International Visitors Program corrects distorted images of the United States, effectively countering misperceptions, underscoring common
human aspirations, advancing United States democratic values, and building a foundation for national and economic security;

Whereas the International Visitors Program offers emerging foreign leaders a unique view of America, highlighting its vibrant private sector, including both businesses and nonprofit organizations, through farm stays, home hospitality, and meetings with their professional counterparts; and

Whereas the International Visitors Program introduces foreign leaders, specialists, and scholars to the American tradition of volunteerism through exposure to the daily work of thousands of "citizen diplomats" who share the best of America with those foreign leaders, specialists, and scholars: Now, therefore, be it

Resolved, that it is the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries ("OPEC") cartel and non-OPEC countries ("non-OPEC") that in light of the March 2000, meeting to lift production quotas at a later time, the President should—

(A) the United States seeks to maintain strong economic growth throughout the world while promoting international efforts to reduce and stabilize crude oil prices as well as reducing dependence on foreign sources of energy;

(B) consider lifting unnecessary regulations that interfere with the ability of United States' domestic oil, gas, coal, hydro-electric, biomass, and other alternative energy industries to supply a greater percentage of the energy needs of the United States; and

(C) the United States seeks to maintain strong relations with crude oil producers around the world while promoting international efforts to remove barriers to energy trade and investment and increased access for United States energy firms around the world;

(D) the United States believes that restricting supply in a market that is in demand of additional crude oil does serious damage to the efforts that OPEC members have made to demonstrate that they represent a reliable source of crude oil supply;

(E) the United States believes that stable crude oil prices and supplies are essential for strong economic growth throughout the world; and

(F) the United States seeks an immediate increase in the OPEC crude oil production quotas and not simply an agreement at the March 27, 2000, meeting to lift production quotas at a later time.

Resolved, That it is the sense of the Senate that—

(1) commemorates the 60th Anniversary of the International Visitors Program and the remarkable public-private sector partnership that sustains it;

(2) commends the achievements of the thousands of volunteers who are part of the National Council for International Visitors ("citizen diplomats") who for decades have daily worked to share the best of America with foreign leaders, specialists, and scholars.

MEASURE READ THE FIRST TIME—H.R. 2366

Mr. SESSIONS. Mr. President, I ask unanimous consent that the committee amendment be agreed to.

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

The committee amendment was agreed to.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution, as amended, be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this resolution be printed in the RECORD.

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

The resolution (S. Res. 263), as amended, was agreed to.

The preamble was agreed to.

CIVIL ASSET FORFEITURE REFORM ACT OF 2000

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 1658, reported by the Judiciary Committee.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 2366) to provide a more just and uniform procedure for federal civil forfeitures, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution, which was reported by the Committee on Foreign Relations, with an amendment to strike out all after the resolving clause and substituting the part printed in italic, as follows:

S. RES. 263

Whereas the United States currently imports roughly 55 percent of its crude oil; whereas ensuring access to and stable prices for oil for the United States and major allies and trading partners of the United States is a continuing critical objective of United States foreign and economic policy for the foreseeable future; whereas the 11 countries that make up the Organization of Petroleum Exporting Countries ("OPEC") produce 40 percent of the world's oil and control 77 percent of proven reserves, including much of the spare production capacity; whereas beginning in March 1998, OPEC instituted 3 tiers of production cuts, which reduced production to 24.300,000 barrels per day and have resulted in dramatic increases in crude oil prices; whereas in August 1999, crude oil prices had reached $21 per barrel and continued rising, exceeding $25 per barrel by the end of 1999 and $27 per barrel during the first week of February 2000; whereas crude oil prices in the United States rose $14 per barrel during 1999, the equivalent of 33 cents per gallon; whereas the increase has translated into higher prices for gasoline and other refined petroleum products; in the case of gasoline, the increases in crude oil prices have resulted in a penny-for-penny passthrough of increases at the pump; whereas increases in the price of crude oil result in increases in prices paid by United States consumers on gasoline, lubricants, jet fuel, and other refined petroleum products; whereas in August 1999, crude oil prices imported into the United States rose $14 per barrel during 1999, the equivalent of 33 cents per gallon; whereas the increase has translated into higher prices for gasoline and other refined petroleum products; in the case of gasoline, the increases in crude oil prices have resulted in a penny-for-penny passthrough of increases at the pump; whereas increases in the price of crude oil result in increases in prices paid by United States consumers on gasoline, lubricants, jet fuel, and other refined petroleum products; whereas the United States is a continuing critical objective of United States foreign and economic policy for the foreseeable future.

The PRESIDING OFFICER. Under the rule, the bill will be read for a second time on the next legislative day.
the Judiciary with an amendment to strike out all after the enacting clause and insert the part printed in italic, as follows:

H.R. 1658

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 “Civil Asset Forfeiture Reform Act of 2000”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title of contents.

Sec. 2. Creation of general rules relating to civil forfeiture proceedings.

Sec. 3. Compensation for damage to seized property.

Sec. 4. Attorney fees, costs, and interest.

Sec. 5. Seizure warrant requirement.

Sec. 6. Use of forfeited funds to pay restitution to crime victims.

Sec. 7. Civil forfeiture of real property.

Sec. 8. Stay of civil forfeiture case.

Sec. 9. Civil restraining orders.

Sec. 10. Cooperation among Federal prosecutors.

Sec. 11. Statute of limitations for civil forfeiture actions.

Sec. 12. Destruction or removal of property to prevent seizure.

Sec. 13. Pungible property in bank accounts.

Sec. 14. Fugitive disentitlement.

Sec. 15. Enforcement of foreign forfeiture judgments.

Sec. 16. Encouraging use of criminal forfeiture as an alternative to civil forfeiture.

Sec. 17. Access to records in bank secrecy jurisdiction.

Sec. 18. Application to alien smuggling offenses.

Sec. 19. Enhanced visibility of the asset forfeiture program.

Sec. 20. Proceeding.

Sec. 21. Effective date.

SEC. 2. CREATION OF GENERAL RULES RELATING TO CIVIL FORFEITURE PROCEEDINGS.

(a) In General.—Chapter 46 of title 18, United States Code, is amended by inserting after section 982 the following:

"§983. General rules for civil forfeiture proceeding.

"(a) NOTICE; CLAIM; COMPLAINT.—

"(1) (A) (i) Except as provided in clauses (ii) through (v), in any nonjudicial civil forfeiture proceeding under a civil forfeiture statute, with respect to which the Government is required to send written notice to interested parties, such notice shall be sent in a manner to achieve proper service of process.

(ii) Before the time for filing a complaint has expired—

"(B) If the Government does not—

(i) file a complaint for forfeiture or return the property, in accordance with subparagraph (A); or

(ii) before the time for filing a complaint has expired,

the Government shall file a complaint for forfeiture in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims or return the property pending the filing of a complaint, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.

(b) REPRESENTATION.—

(i) The person's standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation of counsel, and the person is represented by counsel appointed under section 306A of this title in connection with a related criminal case, the court may authorize counsel to represent that person with respect to the claim.

(ii) In determining whether to authorize counsel to represent a person under subparagraph (A), the court shall take into account such factors as—

(i) the person's standing to contest the forfeiture; and

(ii) whether the claim appears to be made in good faith.
“(2)(A) If a person with standing to contest the forfeiture has standing in a judicial forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel, and the property subject to forfeiture is of a value that is being used or held by a person as a primary residence, the court, at the request of the person, shall ensure that the person is represented by an attorney for the Legal Services Corporation with respect to the forfeiture.

“(B)(i) At appropriate times during a representation under subparagraph (A), the Legal Services Corporation shall submit a statement of reasonable attorney fees and costs to the court.

“(ii) The court shall enter a judgment in favor of the Legal Services Corporation for reasonable attorney fees and costs submitted pursuant to clause (i) and treat such judgment as payable under section 2465 of title 28, United States Code, regardless of the outcome of the case.

“(1) The court shall set the compensation for representation under this subsection, which shall be equivalent to that provided for court-appointed representation under section 306A of this title.

“(c) BURDEN OF PROOF.—In a suit or action brought under any civil forfeiture statute for the civil forfeiture of any property—

“(1) the burden of proof is on the Government to establish, by a preponderance of the evidence, that the property involved in the commission of a criminal offense, or was used in the commission of a criminal offense, or was obtained by a person who obtained the property in the course of a criminal offense, or to establish, by a preponderance of the evidence, the civil forfeiture of any property—

“(i) person acquired the interest in the property—

“(II) gave timely notice to an appropriate law enforcement agency of information that led the person to know the conduct giving rise to forfeiture; and

“(B) the person did all that reasonably could be expected under the circumstances to terminate such use of the property.

“(ii) the property was used to commit or facilitate the commission of a criminal offense, or was involved in the commission of a criminal offense, the Government shall establish that there was a substantial connection between the property and the offense.

“(1) INNOCENT OWNER DEFENSE.—

“(A) an innocent owner’s interest in property shall not be forfeited under any civil forfeiture statute. The claimant shall have the burden of proving that the claimant is an innocent owner by a preponderance of the evidence.

“(2)(A) With respect to a property interest in existence at the time that the illegal conduct giving rise to forfeiture took place, the term ‘innocent owner’ means an owner who—

“(i) did not know of the conduct giving rise to forfeiture; or

“(ii) upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate such use of the property.

“(B)(i) For the purposes of this paragraph, ways in which a person may show that such person did all that reasonably could be expected may include demonstrating that such person, to the extent permitted by law—

“(I) gave timely notice to an appropriate law enforcement agency of information that led the person to know the conduct giving rise to a forfeiture would occur or has occurred; and

“(II) in a timely fashion revoked or made a good faith attempt to revoke permission for those engaging in such conduct to use the property or took reasonable actions in consultation with a law enforcement agency to discourage or prevent illegal use of the property.

“(ii) A person is not required by this subparagraph to take steps that the person reasonably believes to be subject to the person (other than the person whose conduct gave rise to the forfeiture) to physical danger.

“(3)(A) With respect to a property interest acquired after the conduct giving rise to the forfeiture has taken place, the term ‘innocent owner’ means a person who, at the time that person acquired the interest in the property—

“(i) did not know and was reasonably without cause to believe that the property was subject to forfeiture.

“(B) An otherwise valid claim under subparagraph (A) shall not be denied on the ground that the claimant gave nothing of value in exchange for the property.

“(i) the property is the primary residence of the claimant;

“(ii) depriving the claimant of the property would deprive the claimant of the means to maintain reasonable shelter in the community for the claimant and all dependents residing with the claimant;

“(iii) the property is not, and is not traceable to, the proceeds of any criminal offense; and

“(iv) the claimant acquired his or her interest in the property through marriage, divorce, or legal separation, or the claimant was the spouse or legal dependent of a person whose death resulted in the transfer of the property to the claimant through inheritance or probate;

“(5) If the court determines, in accordance with this section, that an innocent owner has a partial interest in property otherwise subject to forfeiture, or a joint tenancy or tenancy by the entirety in such property, the court may enter an appropriate order—

“(A) severing the property;

“(B) transferring the property to the Government with a provision that the Government compensates the innocent owner for the property; or

“(C) granting the innocent owner to retain the property subject to a lien in favor of the Government to the extent of the forfeitable interest in the property.

“(6) In this subsection, the term ‘owner’—

“(A) means a person with an ownership interest in the specific property sought to be forfeited, excluding the value necessary to maintain reasonable shelter in the community to provide assurance that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the innocent owner during the pendency of the proceeding; and

“(B) does not include—

“(i) a person with only a general unsecured interest in, or claim against, the property or estate of another;

“(ii) a bailee unless the bailee is identified and the bailee shows a colorable legitimate interest in the property seized; or

“(iii) a nominee who exercises no dominion or control over the property.

“(e) MOTION TO SET ASIDE FORFEITURE.—

“(1) Any person entitled to written notice in any nonjudicial civil forfeiture proceeding under a civil forfeiture statute who does not receive such notice may file a motion to set aside the declaration of forfeiture as to the interest of the moving party.

“(2)(A) Notwithstanding the expiration of any applicable statute of limitations, if the court determines that the cause of action would deprive the claimant of the means to maintain reasonable shelter in the community for the claimant and all dependents residing with the claimant, such as preventing the function of a business, presenting an individual from working, or leaving an individual homeless;

“(3)(A) If not later than 15 days after the date of a request under paragraph (2) the property has not been released, the claimant may file a petition in the district court in which the complaint has been filed or, if no complaint has been filed, in the district court in which the seizure warrant was issued or in the district court for the district in which the property was seized.

“(B) The petition described in subparagraph (A) shall set forth—

“(i) the basis on which the requirements of paragraph (1) are met; and

“(ii) the steps the claimant has taken to secure release of the property from the appropriate official.

“(4) If the Government establishes that the claimant’s claim is frivolous, the court shall deny the petition. In responding to a petition under this subsection on other grounds, the Government may in appropriate cases submit evidence ex parte in order to avoid disclosing any matter that may adversely affect an ongoing criminal investigation or pending criminal proceeding.

“(5) The court shall render a decision on a petition filed under paragraph (3) not later than 30 days after the date of the filing, unless such petition is continued.

“(6) If—
CONGRESSIONAL RECORD—SENATE

March 27, 2000

3650

§2465. Return of property to claimant; liability for wrongful seizure; attorney fees, costs, and interest

(a) In general.—Section 2465 of title 28, United States Code, is amended to read as follows:

"(4) the claimant was not convicted of a crime giving rise to the forfeiture.

(b) Department of Justice.—With respect to a claim to a property that cannot be settled under chapter 171 of title 28, United States Code, the Attorney General may settle, for not more than $50,000 in any case, a claim for damages to, or the value of, any property seized or detained under authority law enforcement officer (as defined in section 2680(h) of title 28, United States Code) who is employed by the Department of Justice, pending suit the scope of his or her employment.

(c) Technical and Conforming Amendments.—The Attorney General may not pay a claim under paragraph (1) that—

(1) is presented to the Attorney General more than 1 year after it accrues; or

(2) is presented by an officer or employee of the Federal Government and arose within the scope of employment of such officer or employee.

SEC. 4. ATTORNEY FEES, COSTS, AND INTEREST.

(a) In general.—Section 2465 of title 28, United States Code, is amended to read as follows:

"(4) the claimant was not convicted of a crime giving rise to the forfeiture.

(b) Department of Justice.—With respect to a claim to a property that cannot be settled under chapter 171 of title 28, United States Code, the Attorney General may settle, for not more than $50,000 in any case, a claim for damages to, or the value of, any property seized or detained under authority of the United States that was dismissed on the occasions, while incarcerated or detained in any action or proceeding based on a civil forfeiture statute in which the Government

(1) means any provision of Federal law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense; and

(2) does not include—

(A) the Tariff Act of 1930 or any other provision of law codified in title 19;

(B) the Internal Revenue Code of 1986;

(C) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); and

(D) the Trading with the Enemy Act (50 U.S.C. App. I et seq.).


(c) Technical and Conforming Amendments.—The analysis for chapter 46 of title 18, United States Code, is amended by inserting after the item relating to section 982 the following:

"983. General rules for civil forfeiture proceedings.

984. Forfeitures in connection with sexual exploitation of children.

985. The Attorney General may not pay a claim under paragraph (1) that—

(1) is presented to the Attorney General more than 1 year after it accrues; or

(2) is presented by an officer or employee of the Federal Government and arose within the scope of employment of such officer or employee.

SEC. 4. ATTORNEY FEES, COSTS, AND INTEREST.

(a) In general.—Section 2465 of title 28, United States Code, is amended to read as follows:

"(4) the claimant was not convicted of a crime giving rise to the forfeiture.

(b) Department of Justice.—With respect to a claim to a property that cannot be settled under chapter 171 of title 28, United States Code, the Attorney General may settle, for not more than $50,000 in any case, a claim for damages to, or the value of, any property seized or detained under authority law enforcement officer (as defined in section 2680(h) of title 28, United States Code) who is employed by the Department of Justice, pending suit the scope of his or her employment.

(c) Technical and Conforming Amendments.—The Attorney General may not pay a claim under paragraph (1) that—

(1) is presented to the Attorney General more than 1 year after it accrues; or

(2) is presented by an officer or employee of the Federal Government and arose within the scope of employment of such officer or employee.

SEC. 4. ATTORNEY FEES, COSTS, AND INTEREST.

(a) In general.—Section 2465 of title 28, United States Code, is amended to read as follows:

"(4) the claimant was not convicted of a crime giving rise to the forfeiture.

(b) Department of Justice.—With respect to a claim to a property that cannot be settled under chapter 171 of title 28, United States Code, the Attorney General may settle, for not more than $50,000 in any case, a claim for damages to, or the value of, any property seized or detained under authority law enforcement officer (as defined in section 2680(h) of title 28, United States Code) who is employed by the Department of Justice, pending suit the scope of his or her employment.

(c) Technical and Conforming Amendments.—The Attorney General may not pay a claim under paragraph (1) that—

(1) is presented to the Attorney General more than 1 year after it accrues; or

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SEC 5. SEIZURE WARRANT REQUIREMENT.

(a) IN GENERAL.—Section 981(b) of title 18, United States Code, is amended to read as follows:

“(b)(1) Except as provided in section 985, any property subject to forfeiture to the United States under section 984 may be seized by the Attorney General and, in the case of property involved in a violation investigated by the Secretary of the Treasury or the United States Postal Service, by the Secretary of the Treasury or the Postal Service, respectively.

(2) Seizures pursuant to this section shall be made pursuant to a warrant obtained in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure, except that a seizure may be made without a warrant—

(A) a complaint for forfeiture has been filed in the United States district court and the court issued an arrest warrant in rem pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims;

(B) there is probable cause to believe that the property is subject to forfeiture and—

(i) the seizure is made pursuant to a lawful arrest or search; or

(ii) another exception to the Fourth Amendment would apply.

(C) the property was lawfully seized by a State or local law enforcement agency and transferred to the Attorney General.

(3) Notwithstanding the provisions of rule 41(a) of the Federal Rules of Criminal Procedure, a seizure warrant may be issued pursuant to this subsection by a judicial officer in any district in which a forfeiture action against the property may be filed under section 1355(b) of title 28, and may be executed in any district in which the property is found, or transmitted to the central authority of any foreign state for service in accordance with any treaty or other international agreement. Any motion for the return of property seized under this section shall be filed in the district court in which the seizure warrant was issued or in the district court for the district in which the property was seized.

(4) A person is arrested or charged in a foreign country in connection with an offense that would give rise to the forfeiture of property in the United States under this section or under the Controlled Substances Act, the Attorney General may apply to any Federal judge or magistrate judge in the district in which the property is located for an ex parte order restraining the property subject to forfeiture for not more than 30 days, except that the time may be extended for good cause shown at a hearing conducted in the manner provided in rule 43(e) of the Federal Rules of Civil Procedure.

(B) The application for the restraining order shall set forth the nature and circumstances of the property and the basis for belief that there are exigent circumstances that permit the Government to seize the property without prior notice and an opportunity for the property owner to contest the basis for the seizure.

(ii) makes an ex parte determination that there are exigent circumstances that permit the Government to seize the property without prior notice and an opportunity for the property owner to contest the basis for the seizure.

(2) For purposes of paragraph (1)(B)(ii), to establish exigent circumstances, the Government shall show that less restrictive measures such as a lis pendens, restraining order, or bond would not suffice to protect the Government's interests in preventing the sale, destruction, or continued unlawful use of the real property.

(3) The court may authorize a seizure of real property under subsection (d)(1)(B)(ii), it shall conduct a prompt post-seizure hearing during which the property owner shall have an opportunity to contest the basis for the seizure.

(3) (f) This section—

(1) applies only to civil forfeitures of real property and interests in real property;

(2) does not apply to forfeitures of the proceeds of the sale of such property or interests, or of money or other assets intended to be used to acquire such property;

(3) shall not affect the authority of the court to enter a restraining order relating to real property.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 46 of title 18, United States Code, is amended by inserting after the item relating to section 984 the following:

“§ 985. Civil forfeiture of real property.

(a) Notwithstanding any other provision of law, all civil forfeitures of real property and interests in real property shall proceed as judicial forfeitures.

(b)(1) Except as provided in this section—

(A) real property that is the subject of a civil forfeiture action may be seized before entry of an order of forfeiture; and

(B) the owners or occupants of the real property shall not be evicted from, or otherwise deprived of the use and enjoyment of, real property that is the subject of a pending forfeiture action.

(2) The filing of a lis pendens and the execution of a writ of entry for the purpose of conducting an inspection and inventory of the property shall not be considered a seizure under this subsection.

(c)(1) The Government shall initiate a civil forfeiture action against real property by—

(A) filing a complaint for forfeiture;

(B) posting a notice of the complaint on the property; and

(C) serving notice on the property owner along with a copy of the complaint.

(2) If the property owner cannot be served with the notice under paragraph (1) because the owner—

(A) is a fugitive;

(B) resides outside the United States and efforts at service pursuant to rule 4 of the Federal Rules of Civil Procedure are unavailing; or

(C) cannot be located despite the exercise of due diligence,

constructive service may be made in accordance with the laws of the State in which the property is located.

(d)(1) Real property may be seized prior to entry of an order of forfeiture if—

(A) the Government notifies the court that it intends to seize the property before trial; and

(B) the court—

(i) issues a notice of application for warrant, causes the notice to be served on the property owner, and holds a hearing in which the property owner has a meaningful opportunity to be heard; or
ongoing criminal investigation or pending criminal proceeding, the Government may enter a restraining order to protect the rights of lienholders or others with an interest in the property while the stay is in effect.

(7) A determination by the court that the claimant has failed to satisfy paragraph (2) shall apply only to this subsection and shall not preclude the Government from objecting to the standing of the claimant by way of motion or at the time of trial.

(b) Drug Forfeitures.—Section 511(l) of the Controlled Substances Act (21 U.S.C. 851(l)) is amended to read as follows:

(i) The provisions of section 981(g) of title 18, United States Code, regarding the stay of a civil forfeiture proceeding shall apply to forfeitures under this section.

SEC. 9. CIVIL RESTRAINING ORDERS.

Section 981 of title 18, United States Code, as added by this Act, is amended by adding at the end of the section the following:

(1) Restraining Orders; Protective Orders.—

(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of satisfactory performance bonds or other security, appoint conservators, custodians, appraisers, accountants, or trustees, or take any other action to seize, secure, maintain, or preserve the availability of the property subject to civil forfeiture.

(A) A temporary restraining order shall not be granted if the court finds that—

(i) there is a substantial probability that the United States will prevail on the issue of civil forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order shall be entered.

(2) An order entered pursuant to paragraph (1)(B) shall be effective for no more than 90 days, unless extended by the court for good cause shown, or unless a complaint described in paragraph (1)(A) has been filed.

(3) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when a complaint has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought is subject to civil forfeiture and that provision of notice will jeopardize the availability of the property for forfeiture.

Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended by the court for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

(4) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

SEC. 10. COOPERATION AMONG FEDERAL PROS.

Section 3322(a) of title 18, United States Code, is amended—

(1) by striking "civil forfeiture under section 984 of title 18, United States Code, of property described in section 981(a)(1)(C) of such title" and inserting "any civil forfeiture provision of Federal law"; and

(2) by striking "concerning a banking law violation".

SEC. 11. STATUTE OF LIMITATIONS FOR CIVIL FORFEITURE ACTIONS.

Section 621 of the Tariff Act of 1930 (19 U.S.C. 1621) is amended by inserting at the end the following:

(1) Upon application of the United States, within 2 years after the time when the involvement of the property in the alleged offense was discovered, whatever was later than "within five years after the time when the alleged offense was discovered".

SEC. 12. DESTRUCTION OR REMOVAL OF PROPERTY TO PREVENT SEIZURE.

Section 2332 of title 18, United States Code, is amended—

(1) by striking subsections (a) and (b);

(2) by inserting "(c) FOREIGN INTELLIGENCE SURVEILLANCE.—Whoever, having knowledge that a Federal officer;"

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting before subsection (d), as redesignated, the following:

(a) DESTRUCTION OR REMOVAL OF PROPERTY TO PREVENT SEIZURE.—Whoever, before, during, or after any search for or seizure of property by any person authorized to make such search or seizure, knowingly destroys, damages, wastes, disposes of, transfers, or otherwise takes any action, or knowingly attempts to destroy, damage, waste, dispose of, transfer, or otherwise take any action, for the purpose of preventing or impeding the Government's lawful authority to take such property into its custody or control or to continue holding such property under its lawful custody and control, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) IMPAIRMENT OF IN REM JURISDICTION.—Whoever, knowing that property is subject to the in rem jurisdiction of a United States court for purposes of civil forfeiture under Federal law, knowingly and without authority from that court, destroys, damages, wastes, disposes of, transfers, or otherwise takes any action, or knowingly attempts to destroy, damage, waste, dispose of, transfer, or otherwise take any action, for the purpose of impairing or defeating the court's jurisdiction over the property, shall be fined under this title or imprisoned not more than 5 years, or both.

(c) NOTICE OF SEARCH OR EXECUTION OF WELFARE OR WARRANT OF ARREST IN REM.—Whoever, having knowledge that any person authorized to make searches and seizures, or to execute a warrant of arrest in rem, in order to prevent the unauthorized seizing or securing of any person or property, gives notice or attempts to give notice in advance of the search, seizure, or execution of such warrant or warrant of arrest in rem, to any person shall be fined under this title or imprisoned not more than 5 years, or both.

SEC. 13. FUNGIBLE PROPERTY IN BANK ACCOUNTS.

(a) In General.—Section 984 of title 18, United States Code, is amended—

(1) by striking subsections (a) and (b), and inserting in their stead the following:

(A) by striking "or"; and inserting the following:

(B) inserting "subsection (c)"; and

(2) by striking "section 311(b)(2)(B) of title 18, United States Code, is amended by inserting at the end the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any case pending on or after the date of enactment of this Act.

SEC. 15. ENFORCEMENT OF FOREIGN FORFEITURE JUDGMENT.

(a) In General.—Section 2602(c) of title 28, United States Code, is amended by adding at the end of the section the following:

(b) Review by Attorney General.—

(1) The Attorney General shall—

(A) to pay a sum of money representing the proceeds of an offense described in Article 3, Paragraph 1, of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

(B) to forfeit property involved in or traceable to the commission of such offense.

(2) The Attorney General may not order the forfeiture of any property under paragraph (1) unless the Attorney General determines that—

(A) the term ‘foreign nation’ means a country that has entered into a treaty with the United States Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

(B) the term ‘foreign nation’ means a country that has entered into a treaty or other formal international agreement in effect providing for mutual civil forfeiture assistance; or

(C) property described in this section is subject to civil forfeiture under Federal law.

(3) Nothing in this section may be construed to limit the ability of the Government to forfeit property under any provision of Federal law.

(b) Conformity Amendment.—This Act applies to any foreign jurisdiction with which the United States has an agreement for the exchange of information or evidence with respect to the commission of a specified unlawful activity or the commission of the acts constituting a specified offense.

(c) Effective Date.—The amendments made by this section shall apply to civil forfeiture actions commenced on or after the date of enactment of this Act.

SEC. 16. ADMINISTRATION OF FOREIGN FORFEITURE JUDGMENT.

(a) In General.—Section 2602(c) of title 28, United States Code, is amended by adding at the end of the section the following:

(b) Review by Attorney General.—

(1) The Attorney General may not order the forfeiture of any property under paragraph (1) unless the Attorney General determines that—

(A) the term ‘foreign nation’ means a country that has entered into a treaty or other formal international agreement in effect providing for mutual civil forfeiture assistance; or

(B) the term ‘foreign nation’ means a country that has entered into a treaty or other formal international agreement in effect providing for mutual civil forfeiture assistance; or

(C) property described in this section is subject to civil forfeiture under Federal law.

(2) The Attorney General may not order the forfeiture of any property under paragraph (1) unless the Attorney General determines that—

(A) the term ‘foreign nation’ means a country that has entered into a treaty or other formal international agreement in effect providing for mutual civil forfeiture assistance; or

(B) the term ‘foreign nation’ means a country that has entered into a treaty or other formal international agreement in effect providing for mutual civil forfeiture assistance; or

(C) property described in this section is subject to civil forfeiture under Federal law.

(3) Nothing in this section may be construed to limit the ability of the Government to forfeit property under any provision of Federal law.

(c) Effective Date.—The amendments made by this section shall apply to civil forfeiture actions commenced on or after the date of enactment of this Act.
United States under this section shall first submit a request to the Attorney General or the designee of the Attorney General, which request shall include—

(A) a summary of the facts of the case and a description of the proceedings that resulted in the forfeiture or confiscation judgment;

(B) certified copy of the forfeiture or confiscation judgment;

(C) any written or sworn declaration establishing that the defendant received notice of the proceedings in sufficient time to enable the defendant to defend against the charges and that the judgment rendered is in force and is not subject to appeal; and

(D) such additional information and evidence as may be required by the Attorney General or the designee of the Attorney General.

(2) CERTIFICATION OF REQUEST.—The Attorney General or the designee of the Attorney General shall determine whether, in the interest of justice, to certify the request, and such decision shall be final and not subject to either judicial review or review under subchapter II of chapter 5, or chapter 7, of title 5 (commonly known as the 'Administrative Procedure Act').

(c) JURISDICTION AND VENUE.—

(1) IN GENERAL.—If the Attorney General or the designee of the Attorney General certifies a request under subsection (b), the United States may file an application on behalf of a foreign nation in district court of the United States seeking to enforce the foreign forfeiture or confiscation judgment as if the judgment had been entered by a court in the United States.

(2) PROCEEDINGS.—In a proceeding filed under paragraph (1),

(A) the United States shall be the applicant and the defendant or another person or entity affected by the forfeiture or confiscation judgment shall be the defendant;

(B) venue shall lie in the district court for the District of Columbia or in any other district in which the defendant or the property that may be the basis for satisfaction of a judgment under this section may be found; and

(C) the district court shall have personal jurisdiction over a defendant residing outside of the United States if the defendant is served with process in accordance with rule 4 of the Federal Rules of Civil Procedure.

(d) ENTRY AND ENFORCEMENT OF JUDGMENT.—

(1) IN GENERAL.—The district court shall enter orders as may be necessary to enforce the judgment, including orders directing the foreign nation to pay the United States such duties as are imposed upon the Secretary of the Treasury by subtitle B of chapter 32 of title 26 (relating to civil forfeitures).

(2) Seizure and Forfeiture.—

(A) The court, in imposing sentence on such person, shall order the forfeiture of the property or information with such violation but no action taken under this section shall be seized and subject to forfeiture.

(B) Any conveyance, including any vessel, vehicle, or aircraft, that has been or is being used in the commission of a violation of subsection (a), the gross proceeds of such violation, and any property traceable to such conveyance or proceeds, shall be seized and subject to forfeiture.

(3) Seizure and confiscation under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, including section 981(d) of such title, except that such duties as are imposed upon the Secretary of the Treasury by such sections of such title and United States customs laws described in that section shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Attorney General.

(4) Finality of Foreign Findings.—In determining whether a violation of subsection (a) has occurred, any proceeding under this section shall be evidence that an alien involved in the alleged violation had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law:

(A) Records of any judicial or administrative proceeding in which alien’s status was an issue, a record of which it was determined that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(B) Official records of the Service or of the Department of State showing that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(C) The Attorney General’s official record showing that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

SEC. 16. ENCOURAGING USE OF CRIMINAL FORFEITURE AS AN ALTERNATIVE TO CIVIL FORFEITURE.

Section 2601 of title 28, United States Code, is amended by adding at the end the following:

"(41) IN GENERAL.—In any civil forfeiture case, the court shall order the forfeiture of the property in accordance with the procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) of that section."

SEC. 17. ACCESS TO RECORDS IN BANK SECRECY JURISDICTIONS.

Section 592(a) of title 18, United States Code, is amended by adding at the end the following:

"(a) IN GENERAL.—Any conveyance, including any vessel, vehicle, or aircraft, that has been or is being used in the commission of a violation of subsection (a), the gross proceeds of such violation, and any property traceable to such conveyance or proceeds, shall be seized and subject to forfeiture.

(b) Seizure and Forfeiture.—

(A) The court, in imposing sentence on such person, shall order the forfeiture of the property or information with such violation but no action taken under this section shall be seized and subject to forfeiture.

(B) Any conveyance, including any vessel, vehicle, or aircraft, that has been or is being used in the commission of a violation of subsection (a), the gross proceeds of such violation, and any property traceable to such conveyance or proceeds, shall be seized and subject to forfeiture.

(C) Seizure and confiscation under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, including section 981(d) of such title, except that such duties as are imposed upon the Secretary of the Treasury by such sections of such title and United States customs laws described in that section shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Attorney General.

(3) PRIMA FACIE EVIDENCE IN DETERMINATION OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, any proceeding under this section shall be evidence that an alien involved in the alleged violation had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law:

(A) Records of any judicial or administrative proceeding in which alien’s status was an issue, a record of which it was determined that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(B) Official records of the Service or of the Department of State showing that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(C) The Attorney General’s official record showing that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(B) Official records of the Service or of the Department of State showing that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(C) The Attorney General’s official record showing that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(D) The court shall order the forfeiture of the property in accordance with the procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) of that section."

SEC. 18. APPLICATION TO ALIEN SMUGGLING OF FENNES.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 274(b) of the Immigration and Nationality Act (8 U.S.C. 1324(b)) is amended to read as follows:

"(b) CONFORMING AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"2647. Enforcement of foreign judgment."."
"(viii) A report listing each property in the year-end inventory, not yet forfeited, with an outstanding equity of not less than $1,000,000.

"(B) The Attorney General shall transmit to Congress and make available to the public, not later than 180 days after final issuance, the audited financial statements for each fiscal year for the Fund.

"(C) Reports under subparagraph (A) shall include information with respect to all forfeitures under any law enforced or administered by the Department of Justice.

"(D) The transmittal and publication requirements in subparagraphs (A) and (B) may be satisfied by—

"(i) posting the reports on an Internet website maintained by the Department of Justice for a period of not less than 2 years; and

"(ii) notifying the Committees on the Judiciary of the House of Representatives and the Senate when the reports are available electronically.

SEC. 26. PROCEEDS.

(a) FORFEITURE OF PROCEEDS.—Section 981(a)(18) of title 18, United States Code, is amended by striking "or a violation of section 1956(c)(7) of this title, or a conspiracy to commit such offense.

(b) DEFINITION OF PROCEEDS.—Section 981(a) of title 18, United States Code, is amended by adding after the last sentence the following:

"(2) For purposes of paragraph (1), the term 'proceeds' means the amount of money, goods, services, unlawful activities, and telemarketing and health care fraud schemes, the term 'proceeds' means property of any kind obtained directly or indirectly, as the result of the commission of the offense giving rise to forfeiture, and any property traceable thereto, and is not limited to the net gain or profit realized from the offense.

"(B) In cases involving illegal goods, illegal services, unlawful activities, and telemarketing and health care fraud schemes, the term 'proceeds' means property of any kind obtained directly or indirectly, as the result of the commission of the offense giving rise to forfeiture, and any property traceable thereto, and is not limited to the net gain or profit realized from the offense.

"(C) In cases involving illegal goods, illegal services, unlawful activities, and telemarketing and health care fraud schemes, the term 'proceeds' means property of any kind obtained directly or indirectly, as the result of the commission of the offense giving rise to forfeiture, and any property traceable thereto, and is not limited to the net gain or profit realized from the offense.

"(C) In cases involving fraud in the process of obtaining a loan or extension of credit, the court shall allow the claimant a deduction from the forfeiture to the extent that the loan was repaid, or the debt was satisfied, without any financial loss to the victim.

SEC. 21. EFFECTIVE DATE.

Except as provided in section 1(c), this Act and the amendments made by this Act shall apply to any forfeiture proceeding commenced on or after the date of enactment of this Act.

Mr. HATCH. Mr. President, I am pleased to announce that Chairman HYDE, Senator LEAHY and I reached an agreement with the Department of Justice and Senators Sessions and Schumer yesterday on civil forfeiture reform legislation. This is an important issue, and I am proud to support this legislation. While civil forfeiture is a valuable law enforcement tool, it has become clear that the current reform of civil forfeiture law is necessary given the numerous controversial seizures of property in the last decade.

Federal civil forfeiture procedures, which are based largely on 19th century admiralty law, provide inadequate protections for property owners. For example, under current Federal law, once the government seizes property, the burden of proof is on the property owner to prove that the property is not subject to forfeiture. After property is seized, the property owner must post a cost bond in order to contest the forfeiture. This bond requirement does not entitle the property owner to the return of the property, but merely allows the claimant to contest the forfeiture. If the property owner files a claim to the property, the government has up to five years to file a complaint for forfeiture.

The legislation agreed to today increases protections for property owners, lowering the costs of civil law enforcement. Among other provisions, the bill places the burden of proof in civil forfeiture cases on the government throughout the proceeding; places reasonable time limits on the government to initiate forfeiture actions; provides uniform and prompt claimant defense to all federal civil forfeitures affected by the bill.

All of us here are committed to depriving criminals of the proceeds of crime. To further this goal, the bill increases the ability of the Justice Department to target criminal proceeds. The bill also extends criminal forfeiture authority to any Federal statute in which civil forfeiture authority exists in order to encourage the use of criminal proceeding, the bill contains a provision to bill contains several mechanisms to deter and punish frivolous claims to seized property. Senator Sessions will describe these provisions in detail.

A broad coalition of organizations support this bill, including the Chamber of Commerce, the American Bankers Association, the National Association of Homebuilders, the National Association of Realtors, the Institute for Justice, Americans for Tax Reform, the American Bar Association, and the Fraternal Order of Police. In addition, six former Attorneys General—William Barr, Richard Thornburg, Edwin Meese, Benjamin Civiletti, Griffin Bell, and Nicholas Katzenbach—have endorsed the bill.

In closing, I would like to thank Senators Sessions and Schumer for their patience and cooperation. This agreement would not be possible without the hard work of all concerned. Senator Sessions is to be especially commended. As a former United States Attorney and state Attorney General, he has more experience in civil forfeiture actions than any Member of Congress. Senator Sessions has been an outstanding representative of the law enforcement community, and I am proud to have his support.

Finally, I would like to thank House Judiciary Chairman HENRY HYDE. No one has done more to advance the cause of civil forfeiture reform than Chairman HYDE. His 1995 book on civil forfeiture helped draw national attention to the need for reform. Last June, the House overwhelmingly passed the Hyde-Conyers civil forfeiture reform bill. This victory for forfeiture reform was due in large measure to HYDE's stature and commitment.

Thank you for your attention to this important reform legislation.

Mr. LEAHY. Mr. President, at long last, after years of effort and several and boats, and stashes, houses, and by drug dealers and put them to honest use. Last year alone, the government was able to seize nearly half a billion dollars worth of assets, cutting a big chunk out of criminals' profit stream and returning it to the law-abiding community.

Unfortunately, our nation's asset forfeiture is not fail-safe; it can be and has been abused. In hearings on this issue, the Judiciary Committee has heard examples of what happens when prosecutorial zeal skews the boundaries of due process, leading to the taking of private property regardless of whether the owner is innocent of,
March 27, 2000

CONGRESSIONAL RECORD—SENATE 3655

even cognizant of, the property’s use in an illegal act, or whether the seizure is entirely out of proportion to the criminal conduct.

I am well aware from incidents in Vermont about how aggressive use by Federal and State law enforcement officials of civil asset forfeiture laws can appear unfair and excessive, and thereby fuel public distrust of the government in general and law enforcement in particular. For example, in 1989, federal prosecutors seized a Vermont homestead that a family had built and lived in for over a decade. The husband had pleaded guilty in State court to growing six marijuana plants, without his wife’s knowledge, and was sentenced to 50 hours of community service, which he fulfilled by building bookshelves for the local public library.

Yet, one year after his arrest, Vermont State police brought his arrest to the attention of the federal authorities and Federal marshals seized the family’s home and 49 surrounding acres. Hundreds of Vermonters rallied to the family’s defense, including former prosecutors, until the case was settled with no seizure of the property.

In another civil asset forfeiture case, federal prosecutors again seized the home and 10 acres of a Vermont woman in Richmond, Vermont, after two hidden patches of marijuana plants were discovered on her property. Criminal charges against the woman were dismissed when she established she was unaware that her daughter and daughter’s boyfriend were cultivating the plants. Three years after the seizure, in 1990, a federal judge ordered the government to return the property to the woman, but by that time it had been destroyed by fire.

In contrast to the obligation under Vermont law that law enforcement agencies must “ensure that the property is properly maintained,” 18 V.S.A. § 4216, the federal authorities who made the seizure of this property had no such obligation and did not take good care of the property.

In yet another civil asset forfeiture case, federal prosecutors in 1990, seized the home and 10.7 acres of a family in Craftsbury Common, Vermont, after the homeowner was convicted in State court of cultivating marijuana and given suspended sentences three years earlier in 1987.

Given the fact that in each of these cases, the underlying criminal charges were prosecuted by the State but the forfeiture action was taken federally, one might ask why these related proceedings were divided between the State and Federal authorities? The answer is simple: Vermont law does not allow for real property forfeiture, “which is occupied as the primary residence of a person involved in the violation and a member or members of that person’s family.” 18 V.S.A. § 4241(a)(5).

Moreover, under Vermont law, state law enforcement authorities carry a heavier burden “of proving all material facts necessary to establish probable cause” than federal authorities: “which is occupied as the primary residence of a person involved in the violation and a member or members of that person’s family.” 18 V.S.A. § 4244(c).

By contrast, federal forfeiture procedures provide more latitude on the property subject to seizure and more lenient requirements for federal law enforcement authorities to meet.

While federal authorities in Vermont have in recent years avoided such egregious asset forfeiture abuses, that is not the situation in other jurisdictions, prompting increasing and exceedingly sharp criticism from scholars and commentators of the federal asset forfeiture system, which in general requires far less from the government than any State forfeiture law.

Federal judges have also added their voices to the growing chorus of concern. In 1992, the Second Circuit Court of Appeals stated: “We continue to be enormously troubled by the government’s increasing and virtually unchecked use of forfeiture statutes and the disregard for due process that is buried in those statutes.”

Four years later, the Eighth Circuit rebuked the government for capitalizing on the claimants’ confusion to forfeit over $70,000 of their currency, and expressed alarm that "the war on drugs has brought us to the point where the government may seize... a citizen’s property without any initial showing of cause, and then the citizen to perfectly navigate the bureaucratic labyrinth in order to liberate what is presumably his or hers in the first place... Should the citizen prove inept, the government may keep the property, without ever having to justify or explain its actions.

Similarly, the Seventh Circuit recently expressed its belief that “the government’s conduct in forfeiture cases should be ascribed to be desired...” and ordered the return of over $500,000 in currency that had been improperly seized from a Chicago pizzeria.

Under current law, the property owner—not the government—bears the burden of proof. All the government must do is make an initial showing of probable cause that the property is “guilty” and subject to forfeiture. The property owner must then prove a negative—that the property was not involved in any wrongdoing. It is time to bring this law in line with our modern principles of due process and fair play, and reform forfeiture procedures to ensure that innocent property owners are adequately protected.

The Hyde-Conyers civil asset forfeiture reform bill, H.R. 1658, passed the House by an overwhelming bipartisan majority (375–48) last June. After lengthy negotiations with the Department of Justice, Chairman HATCH and I introduced a substitute amendment to H.R. 1658, which the Senate passes today, are the following:

Burden of proof. The substitute amendment puts the burden of proof on the government by a preponderance of the evidence.

Cost bond. Another core reform of the substitute amendment is the elimination of the so-called “cost bond.” Under current law, a property owner who seeks to recover his property after it has been seized by the government must pay for the privilege by posting a bond with the court. No other federal statute requires a cost bond, and no
State requires a cost bond in civil forfeiture cases. The substitute amendment permits the owner to file a claim on oath, under penalty of perjury. It also provides for imposition of a civil fine, in cases where the claimant’s assertion of an interest in the property was frivolous. In addition, claimants will continue to bear the substantial costs of litigation in these cases. The added burden of the “cost bond” serves no legitimate purpose.

Legal assistance and attorney fees. The substitute amendment permits courts to authorize counsel to represent an indigent claimant only if the claimant is represented by a court-appointed attorney in connection with a related federal criminal case. This is both fair and efficient, and eliminates any appearance that the government chose to pursue the forfeiture in a civil proceeding rather than as part of the criminal case in order to deprive the claimant of his right to counsel.

Beyond this, the substitute amendment provides that when the government seeks to forfeit an indigent person’s primary residence, that person will be afforded representation by the Legal Services Corporation. When a forfeiture action can result in a claimant’s eviction and homelessness, there is more at stake than just a property interest, and it is fair and just that the claimant be provided with an attorney if he cannot otherwise afford one. The Legal Services Corporation will be paid by the government for providing representation in these cases.

For claimants who are not provided with counsel, the substitute allows for the recovery of reasonable attorney fees and costs if they substantially prevail on their claim. The bill also makes the government liable for post-judgment interest on any money judgment, and imputed interest in certain cases involving currency or negotiable instruments.

Filing deadlines. Under current law, a property owner has only 20 days from the date of first publication of the notice of seizure to file a claim challenging an administrative forfeiture, and only 10 days to file a claim challenging a judicial forfeiture. It is therefore unlikely that anyone who may be entitled to proceeds will be able to file a timely claim. The substitute extends the property owner’s time to file a claim following the commencement of an administrative or judicial forfeiture action to 30 days. The bill also codifies current Department of Justice policy with respect to the time period for sending notice of seizure, and establishes a 90-day period for filing a complaint.

Release of property for hardship. The substitute will allow a property owner to hold on to his property pending the final disposition of the case, if he can show that continued possession by the owner will cause the owner substantial hardship, such as preventing him from working, and that this hardship outweighs the risk that the property will be destroyed or concealed if returned to the owner during the pendancy of the case. Unlike H.R. 1638, the substitute adopts the primary safeguard that the Justice Department will have to show that the property must have sufficient ties to the community to provide assurance that the property will not disappear, and that certain property, such as currency and property particularly outfitted for use in illegal activities, shall not be returned. Government cannot obtain a grand jury subpoena to obtain such documents.

Criminal proceeds. The substitute also brings clarity and fairness to the confused body of case law concerning the definition of criminal proceeds. Specifically, in cases involving lawful goods or lawful services that are sold or provided in an illegal manner, the term “proceeds” is defined to mean the amounts received through the illegal transactions resulting in the forfeiture, less the direct costs incurred in providing the goods or services. An exception is made for cases involving certain health care fraud schemes, since it would make no sense to allow those who provide unnecessary services to deduct the cost of those unnecessary services. Having resolved this important matter, the substitute amendment broadly extends the government’s authority to forfeit criminal proceeds under the civil asset forfeiture laws.

Fugitive disentitlement. The Supreme Court in 1996 disallowed the judge-made doctrine that a fugitive disentitlement doctrine say that the government will cause the owner substantive hardship, such as preventing him from working, and that this hardship outweighs the risk that the property will be destroyed or concealed if returned to the owner during the pendancy of the case. Unlike H.R. 1638, the substitute adopts the primary safeguard that the Justice Department will have to show that the property must have sufficient ties to the community to provide assurance that the property will not disappear, and that certain property, such as currency and property particularly outfitted for use in illegal activities, shall not be returned. Government cannot obtain a grand jury subpoena to obtain such documents.

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substitute be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that a amendment relating to the bill be printed in the RECORD.

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

The committee substitute was agreed to.

The bill (H.R. 1658), as amended, was read a third time and passed.

Mr. SESSIONS. Mr. President, the bill we have just considered is a very important piece of legislation that has been the subject of considerable effort over a year now in the Judiciary Committee in the House.

Great efforts have been expended by all parties interested in this legislation to achieve a piece of legislation that would provide enhanced protections to private property owners and at the same time would not undermine, in a real and significant and unnecessary way, the ability of law enforcement agencies to seize and forfeit to the interest of the Government assets from illegal drug dealers and other criminal assets that are forfeited.

In the early 1980s, this Congress passed one of its most historic pieces of legislation that attacked crime in America. It was the asset forfeiture law. At that time, I was a U.S. attorney in Mobile, AL. This Federal law became a daily part of the work of my office.

We instructed our assistant U.S. attorneys that whenever they were prosecuting a drug case, it was not just enough to sentence and punish the criminal, they ought to be sure the ill-gotten gains, the profits they made from selling illegal substances in this country, would be seized and forfeited to the United States.

On a regular basis that was done all over this country. It was a major, important, historic step against crime, particularly against drug crime in America. Hundreds of millions, perhaps billions of dollars, have been forfeited from illegal enterprises since that day. The forfeitures are conducted under this Federal law, although States have the ability to forfeit assets, too.

In Federal court, the Government had to prove its case, seize the asset; a cost bond would be posted by the defendant if he wished to contest the seizure, and a court would hear the case and make a ruling in that fashion.

A number of people believed strongly that when we set about amending this law, we do not need to place any unnecessary burdens on law enforcement and the prosecutors who will have to handle these cases. In fact, a large percentage, perhaps the percent or more of these cases are confessed by the defendant because he has to establish where he got this money. Not many people can explain why they have $50,000 in cash in the trunk of their car along with maybe a few kilograms of cocaine. Normally, there is evidence in addition that they have been a drug dealer and that they haven’t had employment; that their house note is being paid in cash. Often times they paid for their Mercedes automobile in cash, those kinds of things. So the proof turns out to be pretty good, as a normal rule.

I believe the negotiation over this legislation was a fine example of the Senate at work; the Senate and House, as a matter of fact. We believe the agreement that has been reached today will satisfy the House Judiciary Committee leadership and the Senate Judiciary Committee leadership. Now it has already passed the Senate. If the identical bill passes in the House, it will become law. We will have done what we set out to do, to pass legislation that will strengthen protections and civil liberties in America without undermining the rule of law in this country.

I was proud to be a part of that. We worked very hard on it. I express particular appreciation to my staff on the Judiciary Committee: Kristi Lee, who is now U.S. Magistrate in Mobile, AL, and Ed Haden, who is with me today, who both worked with extraordinary skill and knowledge to make this legislation become a reality.

In recent weeks, I am particularly proud of the work Ed Haden has done to be firm and strong for good, solid legislation that could have the support of law enforcement in America.

I also express my appreciation for the leadership of Senator HATCH who chairs the Judiciary Committee. His skill and knowledge on these issues is unsurpassed, and his dedication to American law is unsurpassed.

I also was extraordinarily impressed with the commitment and knowledge and ability of Chairman HENRY HYDE of the House Judiciary Committee. His insight and commitment to making this law better was remarkable, and I think the result has been something of which we can all be proud.

ORDER FOR STAR PRINT—S. 2285

Mr. SESSIONS. Mr. President, I ask unanimous consent that a star print of S. 2285 be made with the changes that are at the desk.

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

ORDERS FOR TUESDAY, MARCH 28, 2000

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Tuesday, March 28. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S.J. Res. 14, as under the previous agreement.

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

Mr. SESSIONS. I ask unanimous consent that the Senate stand in recess from the hours of 12:30 to 2:15 for the weekly party luncheons.
The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SESSIONS. For the information of all Senators, tomorrow morning the Senate will resume consideration of the pending flag desecration resolution. Under the order, there will be 2 hours remaining for debate relating to the Hollings amendment, to be followed by an additional hour for general debate. At 2:15 on Tuesday, following the party luncheons, the Senate will proceed to two consecutive votes on the pending amendments to the flag desecration resolution. It is hoped that following those votes, the Senate will be able to reach a consent agreement regarding the passage vote of S. J. Res. 14. As a reminder, if an agreement is not reached for a vote on passage, then under the provisions of rule XXII, a cloture vote will occur on Wednesday of this week.
I thank all the Members for their attention.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.
There being no objection, the Senate, at 6:45 p.m., adjourned until Tuesday, March 28, 2000, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 27, 2000:
DEPARTMENT OF STATE
GREGORY G. GOVAN, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS CHIEF U.S. DELEGATE TO THE JOINT CONSULTATIVE GROUP (NEW POSITION)

THE JUDICIARY
BEVERLY B. MARTIN, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE G. ERNEST TIDWELL, RETIRED.
ROGER L. HUNT, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA, VICE A NEW POSITION CREATED BY PUBLIC LAW 106–113, APPROVED NOVEMBER 29, 1999.

WITHDRAWALS

Executive messages transmitted by the President to the Senate on March 27, 2000, withdrawing from further Senate consideration the following nominations:

THE JUDICIARY
GAIL S. TUSAN, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE G. ERNEST TIDWELL, RETIRED, WHICH WAS SENT TO THE SENATE ON AUGUST 3, 1999.

DEPARTMENT OF JUSTICE
JOSE ANTONIO PEREZ, OF CALIFORNIA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS, VICE STEPHEN SIMPSON GREGG, WHICH WAS SENT TO THE SENATE ON JANUARY 8, 1999.
IMPROPER TAXATION OF NATIVE AMERICANS

HON. GEORGE MILLER
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. GEORGE MILLER of California. Mr. Speaker, I rise to highlight an ongoing injustice: state taxation of the income of Native American servicemen and women.

The law is clear that a state may not tax the income of tribal members who live on and derive their income from activity within the reservation. Similarly, a state may not tax the income of tribal members who serve in the military and claim their reservation as their home. Nevertheless, these tribal members continue to be taxed by several states. This practice has likely deprived thousands of Native Americans of millions of dollars.

By withholding federal wages of these Native American service personnel for state income taxes, the Department of Defense may unwittingly be assisting this improper taxation.

To date, the burden has fallen on individual servicemen and women to press their claims and seek recovery of their federal wages from the states. To address this wrong on a systemic basis, Mr. Young of Alaska, Chairman of the Committee on Resources, Mr. SKELETON, Ranking Democratic Member of the Committee on Armed Services, and I have asked the Secretary of Defense to ensure that federal withholding procedures do not abet or perpetuate this practice.

I submit for the Record the letter to the Secretary of Defense:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,

HON. WILLIAM S. COHEN,
Department of Defense, Office of the Secretary,
The Pentagon, Washington, DC.

DEAR SECRETARY COHEN: We are writing on behalf of Native American servicemen and women who, with the Department of Defense’s (DOD’s) aid, are subject to improper taxation by the states. As you know, Native Americans have a strong tradition of military service and have served their country in proportions greater than that of the general population. Nearly 16% of the Indian population 16 years and older—over 150,000 people—are veterans.


Although the law is clear, tribal members domiciled on the reservation who are serving their country continue to be taxed by several states. DOD is instrumental in facilitating this improper taxation by withholding federal wages for state income taxes pursuant to 5 U.S.C. §5517. That statute authorizes federal agencies to enter into agreements with states to withhold state income tax from the wages of federal employees.

We are writing to request that DOD review and revise the records of Native American service personnel to ensure that this practice of withholding federal wages for state income tax cease for those claiming the reservation as their home. Over the years, this practice has likely deprived thousands of Native American servicemen and women of millions of dollars. We note that while immediate action on your part will stop this unjust practice and inform states and tribal members of the law, it will not provide retroactive relief for tribal members.

Please let us know of the steps you plan to take to redress this wrong and your progress towards that goal. Thank you for your attention to this important matter.

Sincerely,

GEORGE MILLER,
Senior Democratic Member,
IKE SKELETON,
Senior Democratic Member,
Committee on Armed Services.
DON YOUNG,
Chairman.

HONORING LEBANON CATHOLIC HIGH SCHOOL’S GIRLS’ AND BOYS’ BASKETBALL TEAMS

HON. GEORGE W. GEKAS
OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. GEKAS. Mr. Speaker, today I rise to recognize the incredible achievements of the girls’ and boys’ basketball teams of Lebanon Catholic High School in Lebanon, Pennsylvania. For the first time ever, the Lebanon Catholic Beavers have captured district basketball championships with both the boys’ and girls’ teams.

The boys’ basketball team captured their first District Three Class A title after a come-from-behind victory of 51–45. The Beaver girls were also successful in their pursuit of the District 3 title. The girls’ victory made Lebanon Catholic only the third school in the history of this district’s playoffs to capture the title with both the boys’ and girls’ teams.

Their success was not bought with a short road to victory. The many hours of practice and hard work that these fine young men and women have invested has paid off as they celebrate not only successful seasons, but district championships as well. The athletes on these two extraordinary teams have, undoubtedly, learned valuable lessons of motivation, dedication, and team work.

These young athletes deserve the admiration of their families, teachers, and fellow students for their great accomplishments. I am proud to represent such a fine group of young people from Pennsylvania’s 17th District. I know the entire House of Representatives joins me in congratulating this outstanding group of young people from Lebanon Catholic High School. Congratulations and continued success.

TRIBUTE TO THE EDWIN J. LEYANNA V.F.W. POST 671 HONOR GUARD IN DEWITT MICHIGAN

HON. DAVE CAMP
OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. CAMP. Mr. Speaker, today I pay tribute to a group of noble veterans.

There is no more honorable cause or purpose than serving one’s nation. As history illustrates, our nation has enjoyed unwavering support as millions of men and women have answered the call for duty. It is their sacrifice that has helped build and protect our great nation.

For many, service does not end at discharge. For them serving means honoring those Veterans who pass on. The Honor Guard at VFW Post 671 in DeWitt, Michigan, is composed of 35 selfless veterans who are quick to heed the call for their services when one of their compatriots passes on. Since the group was formed in 1986, these men have performed some 720 military funerals. Whether it rains or snows, these veterans who average 69 years of age—answer the call to duty.

Appreciation for our military and for the many sacrifices of those who serve does not always get the attention it so richly deserves. Post 671’s Honor Guard ensures that proper recognition will be accorded those who so bravely defended our freedom on the occasion of their final interment. Just as the brave men and women being remembered put their country before themselves, the Honor Guard places the needs of the area’s veterans and their families ahead of their own.

Mr. Speaker, please join me and the proud citizens of DeWitt and surrounding communities in saluting these great patriots. I thank the Edwin J. Leyanna V.F.W. Post 671 Honor Guard for their dedication to the fallen heroes of this great nation.
EXTENSIONS OF REMARKS

Mr. STARK. Mr. Speaker, I rise today to introduce the Save Money for Prescription Drug Research Act of 2000, a bill to deny tax deductions to drug companies for certain gifts and benefits, but not product samples, provided to physicians and to encourage use of such funds for pharmaceutical research and development. Rather than spending pharmaceutical dollars on these very questionable gifts, the industry should devote these billions of dollars to research and development of life-saving drugs. This bill will enable them to do so.

The magnitude of drug company bribes to doctors is staggering. In its January 19, 2000, issue, the Journal of the American Medical Association (JAMA) concluded that U.S. drug companies spend more than $11 billion per year on drug promotion and marketing—an estimated $8,000 to $13,000 per physician. These “gifts” include free meals, travel subsidies, sponsored teachings, and even recreational benefits such as sporting event tickets and golfing fees, to name just a few. The JAMA article is attached.

JAMA’s analysis warns that the present extent of these practices “appears to affect prescribing and professional behavior and should be further addressed at the level of policy and education.” The $11 billion that drug companies spend lobbying doctors often leads to distorted, inappropriate, overprescribing of drugs.

Over the years, I have personally received numerous examples of drug company gift-giving to physicians. One physician has sent me many particularly outlandish examples of perks he has been offered. The number of gifts offered by the Drug Library, a trade association (JAMA) concluded that U.S. drug companies spend more than $11 billion per year on drug promotion and marketing—an estimated $8,000 to $13,000 per physician. These “gifts” include free meals, travel subsidies, sponsored teachings, and even recreational benefits such as sporting event tickets and golfing fees, to name just a few. The JAMA article is attached.

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EXTENSIONS OF REMARKS

March 27, 2000

Who’s Teaching the Doctors?—And Seeing Their Sales Rise

By Dan Vergano

At first glance, Harvard Medical School and academic health care companies that sponsor commercial continuing medical education (CME) programs seem to have little in common. But they share one trait: the right to award medical education credits that doctors need to keep their licenses in good standing.

Omnicom, working through subsidiary Pragmaton, is one of a growing number of companies that provide such courses for physicians. The firms are fully accredited, but because the marketing firms often are working for pharmaceutical companies, the practice increasingly is setting off ethical alarms.


But advocates say commercial CME courses use faculty from top medical schools, ensuring objectivity, while delivering updates on drugs to the medical community more quickly than do academic educators. “Companies live through education” to ensure new products are used appropriately, says Bert Post, vice president of research and Manufacturers of America in Washington, D.C.

Marketing firms “advertise wares under the guise of medical education,” she says.

Without commercial CME firms, “you won’t find enough Mother Teresa’s to provide everything doctors need,” says Michael Scotti, a CME official with the American Medical Association. His organization is one of the seven medical groups that charter the Chicago-based Accreditation Council for Continuing Medical Education (ACCME), the body that accredits courses nationwide.

The drug companies provide “unrestricted” grants to the marketeers, who hire the course faculty. But growing numbers of critics say there’s nothing unrestricted about the involvement of pharmaceutical companies.

They fear that CME firms, which widely refer to course sponsors as “clients,” stack their programs with faculty physicians overly friendly to their sponsors’ products. Sponsors get a chance to market their products directly to doctors in a venue disguised as education, critics say. In fact, one company, Indianapolis-based Eli Lilly, is directly accredited by CME, raising further concerns.

Regulations going into effect in June promise a role in advertising activities. In addition, the company hires external doctors and pharmacists to review programs for objectivity.

Pragmaton has higher course standards than his hospital, says psychiatrist Michael Easton of Rush Presbyterian St. Luke’s Medical Center in Chicago, a review board member.

If the accrediting group arbitrarily banned commercial firms from offering CME, it would result in a class-action lawsuit aimed not only at the organization, but also against critics, says Jack Angel, head of the Coalition for Healthcare Communication, an industry trade group. “As long as we meet the same standards, we have a right to participate,” he says.

“Baloney,” De Angelis says. “Show me one of their programs where faculty physicians push drugs not made by the sponsor.”

On the industry side, Angel says academic providers may be complaining about commercial providers more for competitive than altruistic reasons. “They want more of the action.”

FEW PHYSICIAN COMPLAINTS

In response to the dispute, Kopelow says, the ACCME has considered requirements that independent monitoring committees oversee all providers. But even with the new standards, critics note other potential problems with the group’s oversight:

Providers get to pick in advance which courses they review for objectivity.

No requirements ensure that physicians take courses relevant to their specialties.

No explicit requirement exists for physician involvement in CME planning.

“We rely on faculty professionalism to a large extent,” Kopelow says. Industry participation in medicine is standard practice, he says, citing such examples as for-profit hospitals and health maintenance organizations as “the way we do things in the United States.” Compete among CME simply reflect that phenomenon, in his view.

The required disclosure of who finances a course and of any faculty ties to corporate sponsors goes a long way toward ensuring doctors know where the advice is coming from, Kopelow says. “We have millions of eyes out there watching” in some 600,000 annual hours of accredited courses.

Over the past three years his organization has received 56 complaints about programs, 14 resulting in warning letters. But some point out that doctors who want to renew their medical licenses have little incentive to call into question a program that helps them reach that goal.

“Patients should be concerned about this,” Glotzer says. “The job and responsibility of these firms is to market drugs, not to teach doctors.”

Disputes over industry involvement in medicine extend into many areas, some physicians note.

“It’s somewhat insulting to think that doctors don’t have inquiring minds that can tell the good from the bad,” says Dolores Bacon of New York Presbyterian Medical Center.

“There’s a huge variability in commercial (CME) programs,” she adds. “Ultimately, as physicians, our job is to be informed consumers.”

by physicians for adding the drugs to the hospital formulary and changes in prescribing practice. Drug company-sponsored continuing medical education (CME) preferentially highlighted the sponsor’s drug(s) compared with the CME programs. Attending sponsored CME courses and accepting funding for travel or lodging for educational symposia were associated with increased prescription of the sponsor’s drug(s) compared with the CME programs. Attendees highlighted the sponsor’s drug(s) and ensured acceptance by their medical license. Continuing Medical Education (CME) courses use faculty from top medical schools, ensuring objectivity, while delivering updates on drugs to the medical community more quickly than do academic educators.

Critics say there’s nothing unrestricted about the involvement of pharmaceutical companies. Critics fear that what’s in the patient’s best interest won’t always be the determining factor when a doctor scribbles out a prescription.

By Murray Kopelow, head of the ACCME. Under the standards going into effect in June, parent companies of commercial CME firms must possess a mission “congruent” with medical education.

Kopelow says commercial course providers will meet the standards if they maintain a “firewall” between corporate departments possessing a mission “congruent” with medical education.

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HONORING THE AMERICAN ASSOCIATION OF DENTAL SCHOOLS (AADS)

HON. CHARLIE NORWOOD
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Monday, March 27, 2000

Mr. NORWOOD. Mr. Speaker, today I recognize the tremendous work performed by a group of dedicated and tireless professionals: the members of the American Association of Dental Schools (AADS). Many members, including those from the 10th Congressional District of Georgia, are gathering at the AADS 77th Annual Meeting here in the nation’s capital. I congratulate the AADS for its achievements. AADS is the one national organization that speaks exclusively for dental education.

Since 1923 the Association’s institutional membership has trained the nation’s oral health care providers. The Association has done exemplary work in leading the dental education community in addressing the issues influencing education, research, and the health of the public. Members of the Association including all of the dental schools in the United States, Puerto Rico, and Canada, allied dental education programs, corporations, faculty, and students. The nation owes a great debt to AADS for its unwavering commitment to excellence in dental education.

AADS works to promote the value and improve the quality of dental education, and to expand and strengthen the role of dentistry among other health professions in academia and society. There is currently more focus than ever on oral health and I hope the nation will understand that oral health is a part of total health.

AADS is dedicated to assisting its membership in providing service to patients of limited means and quality education of future practitioners. Dental schools and programs play a major role in access to oral health care, reaching many underprivileged low-income populations, including individuals covered by Medicaid and the State Children’s Health Insurance Program (CHIP). AADS members play a critical role in meeting the oral health needs of the nation. It is with great pride that I honor my distinguished colleagues of the dental profession.

Mr. Speaker, I honor the American Association of Dental Schools for being the leader in dental education. I urge my colleagues to join me in wishing AADS many more years of continued success.

THE 80TH ANNIVERSARY OF BALTIMORE HEBREW UNIVERSITY

HON. BENJAMIN L. CARDIN
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Monday, March 27, 2000

Mr. CARDIN. Mr. Speaker, I rise today to congratulate Baltimore Hebrew University, a valuable educational institution in my district, on their 80th anniversary.

Following World War I, in response to a community need for Jewish education and teacher training, Baltimore Hebrew University opened its doors as an institution of higher learning devoted solely to Jewish studies. Today, Baltimore Hebrew University has more graduate and credit students than any other Hebrew college in the nation. The University has the fourth largest Master of Arts program in Jewish Studies in the country with only Yeshiva University, Hebrew Union College and the Jewish Theological Seminary having larger programs.

In addition to teaching Jewish Studies on their Baltimore City campus, Baltimore Hebrew University professors provide Jewish Studies curriculum in other Maryland colleges, including Goucher College, Towson University, and University of Maryland Baltimore County. Next year, BHU professors will begin a new program at John Hopkins University. In addition, Baltimore Hebrew University has begun to offer in conjunction with The Baltimore Jewish Times courses “on line” to provide educational opportunities to students in communities lacking Jewish Studies programs.

Baltimore Hebrew University brings together Jews and non-Jews of all religious backgrounds, providing a diverse, open and community-responsive environment in which students gain an understanding of Jewish literary and historical tradition. Baltimore Hebrew University graduates making contributions in many of my colleagues’ communities include: Stephen Hoffman, president of the Jewish Community Federation of Cleveland; Brain Schreiber, Executive Director of the Jewish Community Center of Greater Pittsburgh; Lesley Weiss, Association Director of the Anti-Defamation League in Washington, D.C.; Gail Naron Chalew, editor of the Journal of Jewish Community Service and Larry S. Moses, President of the Wexner Foundation, to name a few.

I ask my colleagues to join me in congratulating Dr. Robert O. Freedman, president of Baltimore Hebrew University, and the members of the Board of Trustees and the Baltimore Jewish community for their forthitude and foresight in establishing and maintaining Baltimore Hebrew University as a premier institution of higher education.

CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 2001

SPRECH OF HON. MARK UDALL
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 23, 2000

The House in Committee of the Whole House on the State of the Union had under consideration the concurrent resolution (House Concurrent Resolution 290) establishing the congressional budget for the United States Government for fiscal year 2001; revising the congressional budget for the United States Government for fiscal year 2000, and setting forth appropriate budgetary levels for each of fiscal years 2002 through 2005.

Mr. UDALL of Colorado. Mr. Chairman, I cannot support this resolution, for two reasons. It fails to do what should be done, for our country and for all Americans. And, it would insist on doing what should not be done for our economy and for future generations.

It does not extend the solvency of either Social Security or Medicare—which we need to do as the first step toward preparing those vital programs to meet the challenges of the years ahead when the “baby boom” generation retires in large numbers.

It does not properly provide for measures to make affordable prescription drugs available to Medicare beneficiaries and other senior citizens.

It doesn’t adequately fund essential education programs including Head Start, Pell grants for college students, and special education—in fact, it cuts their purchasing power.

It does not protect programs that are vital for many working families—such as child care subsidies, emergency heating and cooling assistance, or affordable housing—or to improve their access to health insurance. It also does not comport with our commitment to respond to the problems of growth and sprawl and fails to provide enough funds for saving open space. And it does not provide enough for veterans’ programs.

And it does not give the proper priority to reducing the public debt.

But what it does do is to mortgage the future to pay for excessive, unfocused tax cuts that would wipe out almost all of the expected surplus outside of Social Security.

It does cut funding for energy research and conservation programs, even as increased prices for gasoline and heating oil are again showing the importance of reducing our dependence on petroleum, while allowing dangerous erosion of funding for many other important scientific research activities.

And it does lay down a blueprint for going back to budget deficits.

For all these reasons—and more—we should not make the mistake of passing this budget plan. We can do better, and we should.

That’s why I voted for the alternative plan proposed by Representative JOHN SPRATT and other Democratic members of the Budget Committee.

The Democratic alternative would have extended the solvency of Social Security and Medicare, while making a downpayment on a plan to let the parents of children who are eligible for Medicaid or the State Children’s Health Insurance program gain health-care coverage under these programs. It also would have provided for Medicare prescription drug coverage, beginning next year, while maintaining the adequately needed to crack down on Medicare fraud, waste, and abuse. It also would have provided more funds for veterans programs, and would have assisted retirees and people who lose their jobs to keep health insurance.

The Democratic alternative would have increased funding for energy research and development, including energy conservation and the development of alternatives to petroleum. And it would have provided more for science, space, and technology programs.

It also would have provided fund to continue assisting local school districts to hire more teachers for overcrowded schools, would have provided nearly $5 billion more for special education funding, would have provided for tax
March 27, 2000

EXTENSIONS OF REMARKS

Mrs. CAPPS. Mr. Chairman, I rise in support of a fiscally responsible federal budget.

I have been very consistent in what I believe we should be doing with our federal budget and project surpluses.

First, we need to pay down the $3.7 trillion national debt. Last year, we paid $230 billion in interest on the debt—that’s almost the size of the Defense budget. Families use times of plenty to pay off debt first—the government should as well. We owe it to our children to get rid of this burden.

We must shore up Social Security and modernize Medicare. Social Security faces a huge challenge with the coming retirement of baby boomers and we must prepare for that now. Providing prescription drug coverage, and increasing payments to Medicare HMO’s and Medicare providers will ensure that central coast seniors have the quality health care they deserve.

We must also make critical investments in education, health care, defense, and veteran’s programs. Schools on the central coast are overcrowded, putting an extra burden on our teachers and potentially shortchanging our kids. Millions of Americans lack health insurance and this adds to overall health care costs and human misery. Our troops are stretched too thin and we have neglected our veterans’ needs for far too long.

And, of course, we must enact some commonsense tax reform. Fixing the marriage penalty, ending the Social Security earnings limit, lifting the estate tax burden on small businesses and family farms—these are all reforms we can accomplish this year.

To meet these goals I will be supporting the alternative budget presented by Mr. S. PRATT. While it does not fully reflect all my goals, it comes closest. And it clearly is superior to the leadership plan.

This mainstream budget puts $364 billion of the non-Social Security surplus toward paying down the debt. The leadership bill puts none of the non-Social Security surplus into debt reduction and may even begin spending the Social Security surplus once again. The mainstream proposal would fund Social Security solvency by at least 10 and 15 years, respectively. The leadership bill does not provide the necessary safety net for the future generations of seniors.

The budget I support provides for prescription drug coverage for all our seniors. The hospitals will avoid the billion dollars in law enforcement than the leadership bill. And this budget allows for responsible increases funding for education, science and medical research and development to ensure that we provide our kids with all the opportunities they deserve. The leadership proposal freezes funding for 5 years for all higher education assistance, meaning fewer Pell grants and Head Start slots for our kids. Finally, this mainstream budget provides for critical funding for energy research and conservation programs.

The leadership bill, even in these times of high gas prices, actually cuts these budgets.

Simply put, Mr. Chairman, the budget I support allows us to continue on a path of fiscal responsibility, while continuing to meet the future challenges that face our society.

The House in Committee on the Whole House on the State of the Union had under consideration the concurrent resolution (House Concurrent Resolution 290) establishing the congressional budget for the United States Government for fiscal year 2001, revising the congressional budget for the United States Government for fiscal year 2000, and setting forth appropriate budgetary levels, for each of fiscal years 2002 through 2005:

Mr. BALLENGER. Mr. Chairman, I applaud my colleagues on the House Budget Committee for their hard work in crafting a fiscal year 2001 budget which all Americans can embrace today. Chairman KASICH has shown vision and leadership in guiding the Congress out of the Democrat-led forty year period of budget deficits and into the Republican era of budget surpluses.

I also would like to give credit to Chairman KASICH for his efforts to publish a summary of where the federal government stands now on combating government waste, fraud, abuse and mismanagement. Sadly, this document (Revising The Reform Agenda) shows how much reform is still needed in agencies and programs throughout the federal government from the Internal Revenue Service (IRS) to various federal housing programs. As a small businessman, I was appalled to read that the most recent audits (fiscal year 1998) showed six major agencies could not provide financial statements that reliably account for the hundreds of billions of dollars they spent. Put another way, these agencies failed to produce the kinds of financial records that the government requires of every private-sector company that trades its stock publicly. The Budget Committee majority staff point out that the General Accounting Office (GAO) and the inspectors general (IG) of the various agencies believe taxpayers’ hard-earned dollars have been wasted and, as a result, beneficiaries of too many federal programs have been deprived of the funding which Congress intended them to receive.

I believe it is important to point to Reviving The Reform Agenda in defense of Republicans’ successful push last year for a 0.38 percent across-the-board cut in the fiscal year 2000 spending bills. And, today, as our colleagues across the aisle criticize the fiscal year 2001 Republican budget which will keep spending to about half the rate of inflation, we need to highlight the fact that government waste, fraud, abuse and mismanagement still exists. Why should we ask our constituents to support the Clinton-Gore administration budget which calls for spending $1.3 trillion on bigger government over the next decade when we are having a hard time managing effectively current programs and spending billions?

It is important to note that the fiscal year 2001 Republican budget proposal keeps a lid on runaway federal spending while devoting the entire Social Security surplus, totaling

A PROCLAMATION RECOGNIZING THE 35TH ANNIVERSARY OF PATRICIA AND JIM GLOVER

HON. ROBERT W. NEY
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, March 27, 2000

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, Patricia and Jim Glover will celebrate their 35th Anniversary today, March 27, 2000;

Whereas, Patricia and Jim declared their love in a ceremony before God, family and friends in Bridgeport, Ohio;

Whereas, 2000 will mark 35 years of sharing, loving, working together and raising a family of two children;

Whereas, may Patricia and Jim be blessed with all the happiness and love that two can share and may their love grow with each passing year;

Therefore, Mr. Speaker, I am pleased to congratulate the Gloves’ on their 35th anniversary. I ask that my colleagues join me in wishing this special couple many more years of happiness together.

CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 2001

HON. LOIS CAPPS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 23, 2000

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3663

HON. CASS BALLENGER
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 23, 2000

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The leadership bill, even in these times of high gas prices, actually cuts these budgets.

Simply put, Mr. Chairman, the budget I support allows us to continue on a path of fiscal responsibility, while continuing to meet the future challenges that face our society.
$166 billion in fiscal year 2001, to a lock box to prevent it from being used to finance other government programs. And, it proposes a $20 billion reserve fund to be used to reform Medicare and provide prescription drug coverage for Medicare beneficiaries who need it.

In addition, the Republican budget proposal contains $150 billion in tax relief over five years, including the elimination of the marriage penalty. It also contains tax relief for small businesses, phases out the estate of “death” tax, establishes tax incentives for educational assistance and tax relief associated with pending health care reform legislation.

Finally, I am pleased to report that the Republican budget increases spending for education, national defense, transportation and veterans programs. In response to many of my constituents; concerns, it also decreases foreign aid expenditures. I believe this budget does it all. I hope my Republican colleagues will continue to spearhead a campaign of reform, beginning with the adoption of the fiscally responsible Republican budget.

SENATE COMMITTEE MEETINGS
Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 28, 2000 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED
MARCH 29
9:30 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 2001 for Department of Defense, focusing on Air Force programs, (to be followed by an open session in SD–192).
SH–219

Judiciary
Administrative Oversight and the Courts Subcommittee
To hold oversight hearings on the handling of the investigation of Peter Lee, pending on Senate calendar.
SD–228

MARCH 30
9 a.m.
Appropriations
Treasury and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for Treasury Law Enforcement Bureaus.
SR–485

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Housing and Urban Development.
SD–192

EXTENSIONS OF REMARKS
March 27, 2000

10:30 a.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the National Institutes of Health, Department of Health and Human Services.
SD–124

Energy and Natural Resources
SD–366

Foreign Relations
To hold hearings to examine the need for nonproliferation policy innovations.
SD–430

Rules and Administration
To hold oversight hearings on the operations of the Architect of the Capitol.
SR–301

10 a.m.
Judiciary
Business meeting to markup H.R. 2260, to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia; and S. 1854, to reform the Hart-Scott-Rodino Antitrust Improvements Act of 1976.
SD–226

Governmental Affairs
To hold hearings on the nominations of Alan Craig Kessler, of Pennsylvania, to be a Governor of the United States Postal Service; and Carol Weller Pope, of the District of Columbia, to be a Member of the Federal Labor Relations Authority.
SD–342

Finance
Business meeting to markup H.R. 6, to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that the income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals.
SD–215

Commerice, Science, and Transportation
To hold hearings on S. 1361, to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions.
SR–253

10:30 a.m.
Environment and Public Works
Superfund, Waste Control, and Risk Assessment Subcommittee
To hold hearings on the Administration’s fiscal year 2001 budget for programs with the Environmental Protection Agency’s Office of Solid Waste and Emergency Response.
SD–406
EXTENSIONS OF REMARKS

APRIL 6

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Veterans Affairs.

Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold oversight hearings on the incinerator component at the proposed Advanced Waste Treatment Facility at the Idaho National Engineering and Environmental Laboratory and its potential impact on the adjacent Yellowstone and Grand Teton National Parks.

APRIL 12

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Corporation for National and Community Service, Community Development Financial Institutions, and Chemical Safety Board.

Indian Affairs
To hold oversight hearings on the report of the Academy for Public Administration on Bureau of Indian Affairs management reform.

APRIL 8

10 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Defense, focusing on missile defense programs.

APRIL 13

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Energy.

APRIL 11

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Energy.

10 a.m.
Energy and Natural Resources
To hold hearings on S. 282, to provide for a more competitive electric power industry; S. 1273, to amend the Federal Power Act to ensure that no State may establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy or otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier; S. 1273, to amend the Federal Power Act, to facilitate the transition to more competitive and efficient electric power markets; S. 1369, to enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency; S. 2071, to benefit electricity consumers by promoting the reliability of the bulk-power system; and S. 2098, to facilitate the transition to more competitive and efficient electric power markets, and to ensure electric reliability.

Energy and Natural Resources
To hold hearings on S. 282, to provide that no electric utility shall be required to enter into a new contract or obligation to purchase or to sell electric energy or capacity under section 210 of the Public Utility Regulatory Policies Act of 1978; S. 516, to benefit consumers by promoting competition in the electric power industry; S. 1047, to provide for a more competitive electric power industry; S. 1284, to amend the Federal Power Act to ensure that no State may establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy or otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier; S. 1273, to amend the Federal Power Act, to facilitate the transition to more competitive and efficient electric power markets; S. 1369, to enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency; S. 2071, to benefit electricity consumers by promoting the reliability of the bulk-power system; and S. 2098, to facilitate the transition to more competitive and efficient electric power markets, and to ensure electric reliability.

Energy and Natural Resources
To hold hearings on S. 2034, to establish the Canyons of the Ancients National Conservation Area.

MARCH 31

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Interior.

10 a.m.
Appropriations
Transportation Subcommittee
To hold hearings to examine the implementation of the Driver’s Privacy Protection Act, focusing on the positive notification requirement.

APRIL 4

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Transportation.

APRIL 5

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of the Interior.

Indian Affairs
To hold hearings on S. 612, to provide for periodic Indian needs assessments, to require Federal Indian program evaluations.

10 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Defense, focusing on Army programs.

SH–216

2:30 p.m.
Energy and Natural Resources
To hold hearings on the transition to more competitive and efficient electric power markets, and to ensure electric reliability.

SH–216

March 27, 2000
APRIL 26
10 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Defense.
SD–192

SEPTEMBER 26
9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the Legislative recommendation of the American Legion.
345 Cannon Building

CANCELLATIONS
MARCH 29
9:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

POSTPONEMENTS
MARCH 30
10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

March 27, 2000
Health, Education, Labor, and Pensions
To hold hearings on medical records privacy.
SD–430

APRIL 19
9:30 a.m.
Indian Affairs
Business meeting to consider pending calendar business; to be followed by hearings on S. 611, to provide for administrative procedures to extend Federal recognition to certain Indian groups.
SR–485