STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself and Ms. SNOWE):

S. 3028. A bill to amend title XVIII of the Social Security Act to eliminate the 190-day lifetime limit on inpatient psychiatric hospital services under the Medicare program; to the Committee on Finance.

Mr. KERRY. Mr. President, our country has recently taken great steps forward to support the principles of mental health parity. In 2008, Congress has enacted two important pieces of legislation to end discrimination against people suffering from mental illnesses.

Congress passed the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, MHPAEA, to prohibit the establishment of discriminatory benefit caps or cost-sharing requirements for mental health and substance use disorders. That same year Congress also passed the Medicare Improvements for Patients and Protections Act, MIPPA, which included legislation introduced by Senator SNOWE, and myself, the Medicare Mental Health Copayment Equity Act. This legislation prevented Medicare beneficiaries from being charged higher copayments for outpatient mental health services than for all other outpatient physician services.

Unfortunately, even with the passage of MIPPA, a serious mental health inequity remains in Medicare. Medicare beneficiaries are currently limited to only 190-days of inpatient psychiatric hospital care in their lifetime. This lifetime limit directly impacts Medicare beneficiaries' access to psychiatric hospitals, although it does not apply to psychiatric units in general hospitals. This arbitrary cap on benefits is discriminatory to the mentally ill as there is no such lifetime limit for any other Medicare specialty inpatient hospital service. The 190-day lifetime limit is problematic for patients being treated in psychiatric hospitals as they may easily exceed the 190-days if they have a chronic mental illness.

That is why Senator SNOWE and I are working together once again to address the last remaining mental health parity issue in Medicare. Today, we are introducing the Medicare Mental Health Inpatient Equity Act. Our legislation would eliminate the Medicare 190-day lifetime limit for inpatient psychiatric hospital care. It would equalize Medicare mental health coverage with private health insurance coverage, expand beneficiary choice of inpatient psychiatric care providers, increase access for the seriously ill, and improve continuity of care.

This legislation is supported by 46 national organizations that represent hospital associations, seniors' organizations and the mental health community. I would like to thank a number of organizations who have been integral to the development of the Medicare Mental Health Inpatient Equity Act and who have endorsed our legislation today, including the AARP, the American Hospital Association, the National Association of Psychiatric Health Systems, and the American Psychological Association.

Congress has now acted to address mental health parity issues for group health plans and for outpatient Medicare services. It is time to end this outmoded law and ensure that beneficiaries with mental illnesses have access to a range of appropriate settings for their care. I look forward to working with my colleagues in the Senate to achieve mental health parity in Medicare.

By Mr. LEAHY (for himself and Mr. GRASSLEY):

S. 3031. A bill to authorize Drug Free Communities enhancement grants to address major emerging drug issues or local drug crises; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I am pleased to join with Senator GRASSLEY to introduce the Drug Free Communities Enhancement Act of 2010, a bill to authorize additional Drug Free Communities grants to help address major emerging drug issues and local drug crises. It is crucial that communities around the country have the leadership and resources needed to respond to serious drug problems in a comprehensive and coordinated manner. Drug Free Community, DFC, coalitions have been proven to significantly lower substance abuse rates in our communities nationwide.

This legislation will allow current and former DFCs to apply for grants of up to $75,000 per year to implement comprehensive, community-wide strategies to address emerging local drug issues or drug crises. The funds may also be used for DFC members to obtain specialized training and technical assistance to improve the operation of their coalitions. These grants, which must be matched dollar for dollar, would be available to DFCs for up to 4 years.

The DFC program encourages local citizens to become directly involved in solving their community's drug issues through grassroots community organizing and data-driven planning and implementation. Research shows that effective prevention hinges on the extent to which the entire community works comprehensively and collaboratively to implement education, prevention, enforcement, treatment, and recovery initiatives. The DFC program strategically invests Federal anti-drug resources at the community level with those who have the most power to reduce the demand for drugs—namely parents, teachers, business leaders, the media, religious leaders, law enforcement officials, youth, and others. Drug Free Communities grantees execute collaborative strategies to address their communities' unique substance use and abuse issues. This is the optimal way to ensure that the entire community benefits from prevention.

In Vermont, we have felt the presence of drug abuse and drug-related crime in our communities. The myth persists that drug abuse and drug-related crime are only big-city problems, but rural America is also coping with these issues. I have twice brought the Judiciary Committee to Vermont to examine these problems and gain perspectives to help shape solutions, and I hope to hold another field hearing in Vermont soon. I know well that law enforcement alone is not the solution for our communities. I have long advocated an approach with equal attention to law enforcement, prevention and education, and treatment.

Perhaps the most important component in dealing with this crucial problem is collaboration. Community antidrug coalitions have a unique ability to build on pre-existing relationships among parents, teachers, students, and law enforcement, which make them a critical component in reducing drug use. I have consistently supported funding for these coalitions and was pleased that last year 14 Vermont coalitions were awarded Drug Free Community grants totaling $1.2 million.

Last week, I spoke with a number of Vermonters representing these community partnerships and heard about the innovative frameworks they have implemented to combat drug abuse in their communities, thanks in large part to DFC grants. This bill will enable many of them to secure supplemental funding to continue the important work they do every day. Indeed, communities nationwide who are facing serious drug issues will benefit from these enhancement grants.

The community coalition model has proven extremely effective, and has achieved impressive outcomes. We see significant results when we have people working together at the local, state, and Federal levels, and in the law enforcement, prevention, and treatment fields. We have seen that success in Vermont and throughout the country, but there is more work to be done. Drug abuse and drug-related crime is a persistent problem in America, in major metropolitan areas and rural communities alike. I hope all Senators will support this bipartisan bill so that communities nationwide can sustain effective community coalitions to reduce youth drug use.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3031

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Drug Free Communities Enhancement Act of 2010''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The epidemiology of drug use indicates that emerging drug trends increase over a

short period of time and tend to cluster in discrete geographic areas. Historical evidence shows that emerging local drug issues and crises can be stopped or mitigated before they spread to other areas, if they are identified quickly and addressed in a comprehensive multi-sector manner.

(2) Federal investments in drug prevention should not be solely based on national data and trends, but must be flexible enough to address emerging local problems and local drug crises before they become national trends.

(3) Successful drug prevention must be based on local data and involve multiple community sectors in planning and implementing specifically targeted strategies that respond to the unique drug problems of the community.

(4) Data and outcomes show that effective community coalitions can markedly reduce local drug use rates for drugs such as marijuana and inhalants among school-aged youth.

(5) Community coalitions are singularly situated to deal with emerging drug issues and local drug crises, such as methamphetamine, cheese (a mixture of black tar heroin and Tylenol PM), and prescription and nonprescription drug abuse because the community coalitions are organized, data driven, and take a comprehensive, multi-sector approach to solving and addressing locally identified drug problems.

(6) Providing enhancement grants to coalitions to address emerging local drug issues or local drug crises is a cost effective way to deal with these drug issues. This approach builds on existing infrastructures with proven results that include all of the relevant community sectors needed to comprehensively address specific emerging drug issues and crises, and guards against using Federal funding to create duplicative community based infrastructures for substance abuse prevention.

SEC. 3. COMMUNITY-BASED COALITION ENHANCEMENT GRANTS TO ADDRESS EMERGING DRUG ISSUES OR LOCAL DRUG CRISES.

(a) DEFINITIONS.—In this section—

(1) the term ''Director'' means the Director of the Office of National Drug Control Policy;

(2) the term ''drug'' means—

(A) a substance listed on schedule I, II, III, IV, or V of section 202 of the Controlled Substances Act (21 U.S.C. 812(c));

(B) inhalants;

(C) if used in a manner that is illegal, a prescription or over the counter drug or medicine; and

(D) another mind altering substance with the potential for abuse, as determined by the Director, not listed on a schedule of section 202(c) of the Controlled Substance Act (21 U.S.C. 812(c));

(3) the term ''emerging local drug issue'' means, with respect to the area served by an eligible entity, a sudden increase in the use or abuse of a particular drug in the community, as documented by local data;

(4) the term ''local drug crisis'' means, with respect to the area served by an eligible entity, the use of a specific drug in the area at levels that are significantly higher than the national average, over a sustained period of time, as documented by local data;

(5) the term ''eligible entity'' means an organization that—

(A) is receiving or has received a grant under chapter 2 of title I of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1521 et seq.) (commonly known as the Drug-Free Communities Act of 1997); and

(B) has documented, using local data—

(i) for an emerging local drug issue—

(I) rates of drug use and abuse above the national average, as determined by the Director (including appropriate consideration of the Monitoring of the Future Survey published by the Department of Health and Human Services), for comparable time periods; or

(II) if national data is not available, at the discretion of the Director, high rates of drug use or abuse based solely on valid local data; or

(ii) for a local drug crisis—

(I) rates of use and abuse for a specific drug at levels that are significantly higher than the national average, as determined by the Director (including appropriate consideration of the Monitoring of the Future Survey published by the Department of Health and Human Services and the National Survey on Drug Use and Health by the Substance Abuse and Mental Health Service Administration); and

(II) rates of use and abuse for a specific drug that continue over a sustained period of time, as determined by the Director.

(b) AUTHORIZATION OF PROGRAM.—The Director may make enhancement grants to eligible entities to implement comprehensive community-wide strategies that address emerging local drug issues or local drug crises within the area served by the eligible entity.

(c) APPLICATION.—

(1) IN GENERAL.—An eligible entity desiring an enhancement grant under this section shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may require.

(2) CRITERIA.—As part of an application for a grant under this section, the Director shall require an eligible entity to submit a detailed, comprehensive, multi-sector plan for addressing the emerging local drug issue or local drug crises within the area served by the eligible entity.

(d) USES OF FUNDS.—A grant under this section shall be used to—

(1) implement comprehensive, community-wide prevention strategies to address an emerging local drug issue or drug crises in the area served by an eligible entity, in accordance with the plan submitted under subsection (c)(2); and

(2) obtain specialized training and technical assistance from the entity receiving a grant under section 4 of Public Law 107–82 (21 U.S.C. 1521 note).

(e) GRANT AMOUNTS.—

(1) IN GENERAL.—The total amount of grant funds awarded to an eligible entity for a fiscal year may not exceed the amount of non-Federal funds raised by the eligible entity, including in-kind contributions, for that fiscal year.

(2) GRANT AWARDS.—A grant under this section shall—

(A) be made for a period of not more than 4 years; and

(B) be for not more than $75,000 per year.

(f) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this section shall be used to supplement, not supplant, Federal and non-Federal funds available for carrying out the activities described in this section.

(g) EVALUATION.—A grant under this section shall be subject to the same evaluation requirements and procedures as the evaluation requirements and procedures imposed on the recipient of a grant under chapter 2 of title I of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1521 et seq.) (commonly known as the Drug-Free Communities Act of 1997).

(h) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount appropriated to carry out this section for any fiscal year may be used by the Director for administrative expenses.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2011 through 2015 to carry out this section.

Mr. GRASSLEY. Mr. President, in 1997 then-Senator BIDEN and I sponsored legislation to create the Drug Free Communities, DFC, grant program. At the time, I believed, as I still do today, that one of the most effective ways the Federal Government can prevent drug abuse from flourishing is by supporting local community efforts to identify, prevent and eradicate the sources of abuse. Since the passage of the Drug Free Communities Act, hundreds of community anti-drug coalitions have received Federal grants to further their efforts to halt the spread of drug abuse in their communities.

Despite the successes of the DFC program, drug abuse continues to challenge our communities. More often than not, a community can rise up to meet this challenge head on and confront the abuse before it spreads. However, drug abuse is one challenge that can emerge in rapid fashion. In difficult economic times when States and communities struggle to stay within their budgets without eliminating vital services, it is important that community anti-drug coalitions do not suffer from a lack of resources. This is why I am pleased to join my colleague, Senator LEAHY, in introducing the Drug Free Communities Enhancement Act, DFCEA, of 2010.

This legislation builds off the successful DFC grant program by allowing community coalitions to form a strategy that best fits their community to confront a sudden or emerging drug threat without Federal interference. The DFCEA authorizes $5 million to the Office of National Drug Control Policy to award supplemental grants of up to $75,000 to current and past DFC grantees to address an emerging drug issue or crisis. The grantee would be eligible to receive these supplemental grants for up to a 4 year period if they document, using local data, rates of drug abuse higher than the national average.

In my home State of Iowa, communities face unique challenges in confronting drug abuse. In Polk County, the home of the State capitol of Des Moines, 37 percent of 11th graders admitted to using marijuana in the 2008 Iowa Youth Survey. This is significantly higher than the statewide average of 27 percent from the same survey. This number is also 4 percent higher than the national average according to the 2009 Monitoring the Future survey of 12th graders. In Black Hawk County, the home of Waterloo and Cedar Falls, 8 percent of 11th graders admitted to using over-the-counter cold medicines to get high according to the Iowa Youth Survey. This is higher than the 6 percent of the Nation's 12th graders who admitted to cold medicine abuse in the Monitoring the Future survey. Communities like these would benefit under the DFCEA, because they would

be able to apply for a supplemental grant to put a strategy into action to reduce these use rates.

Community coalitions represent the front lines in the fight against drug abuse. The DFCEA will help to ensure that community coalitions will remain strong and vibrant no matter the economic or drug trend situation in the community. Drug abuse flourishes when the problem is ignored. If we are to overcome the challenges of drug abuse we must stand untied in the effort. I urge my colleagues to join us as we continue this fight to keep our communities drug free.

By Mr. DURBIN (for himself, Mr. BROWN of Ohio, Mr. HARKIN, and Mr. FRANKEN):

S. 3033. A bill to amend title 11, United States Code, to improve protections for employees and retirees in business bankruptcies; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3033

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 ''Protecting Employees and Retirees in Business Bankruptcies Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Business bankruptcies have increased sharply over the past year and remain at high levels. These bankruptcies include several of the largest business bankruptcy filings in history. As the use of bankruptcy has expanded, job preservation and retirement security are placed at greater risk.

(2) Laws enacted to improve recoveries for employees and retirees and limit their losses in bankruptcy cases have not kept pace with the increasing and broader use of bankruptcy by businesses in all sectors of the economy. However, while protections for employees and retirees in bankruptcy cases have eroded, management compensation plans devised for those in charge of troubled businesses have become more prevalent and are escaping adequate scrutiny.

(3) Changes in the law regarding these matters are urgently needed as bankruptcy is used to address increasingly more complex and diverse conditions affecting troubled businesses and industries.

TITLE I—IMPROVING RECOVERIES FOR EMPLOYEES AND RETIREES

SEC. 101. INCREASED WAGE PRIORITY.

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (4)—

(A) by striking ''$10,000'' and inserting ''$20,000'';

(B) by striking ''within 180 days''; and

(C) by striking ''or the date of the cessation of the debtor's business, whichever occurs first,'';

(2) in paragraph (5)(A), by striking—

(A) ''within 180 days''; and

(B) ''or the date of the cessation of the debtor's business, whichever occurs first''; and

(3) in paragraph (5), by striking subparagraph (B) and inserting the following:

''(B) for each such plan, to the extent of the number of employees covered by each such plan, multiplied by $20,000.''.

SEC. 102. CLAIM FOR STOCK VALUE LOSSES IN DEFINED CONTRIBUTION PLANS.

Section 101(5) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by inserting ''or'' after the semicolon; and

(3) by adding at the end the following:

''(C) right or interest in equity securities of the debtor, or an affiliate of the debtor, held in a defined contribution plan (within the meaning of section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34))) for the benefit of an individual who is not an insider, a senior executive officer, or any of the 20 next most highly compensated employees of the debtor (if 1 or more are not insiders), if such securities were attributable to either employer contributions by the debtor or an affiliate of the debtor, or elective deferrals (within the meaning of section 402(g) of the Internal Revenue Code of 1986), and any earnings thereon, if an employer or plan sponsor who has commenced a case under this title has committed fraud with respect to such plan or has otherwise breached a duty to the participant that has proximately caused the loss of value.''.

SEC. 103. PRIORITY FOR SEVERANCE PAY.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking ''and'' at the end;

(2) in paragraph (9), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(10) severance pay owed to employees of the debtor (other than to an insider, other senior management, or a consultant retained to provide services to the debtor), under a plan, program, or policy generally applicable to employees of the debtor (but not under an individual contract of employment), or owed pursuant to a collective bargaining agreement, for layoff or termination on or after the date of the filing of the petition, which pay shall be deemed earned in full upon such layoff or termination of employment.''.

SEC. 104. FINANCIAL RETURNS FOR EMPLOYEES AND RETIREES.

Section 1129(a) of title 11, United States Code is amended—

(1) by adding at the end the following:

''(17) The plan provides for recovery of damages payable for the rejection of a collective bargaining agreement, or for other financial returns as negotiated by the debtor and the authorized representative under section 1113 (to the extent that such returns are paid under, rather than outside of, a plan).''; and

(2) by striking paragraph (13) and inserting the following:

''(13) With respect to retiree benefits, as that term is defined in section 1114(a), the plan—

''(A) provides for the continuation after its effective date of payment of all retiree benefits at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 at any time before the date of confirmation of the plan, for the duration of the period for which the debtor has obligated itself to provide such benefits, or if no modifications are made before confirmation of the plan, the continuation of all such retiree benefits maintained or established in whole or in part by the debtor before the date of the filing of the petition; and

''(B) provides for recovery of claims arising from the modification of retiree benefits or for other financial returns, as negotiated by the debtor and the authorized representative (to the extent that such returns are paid under, rather than outside of, a plan).''.

SEC. 105. PRIORITY FOR WARN ACT DAMAGES.

Section 503(b)(1)(A)(ii) of title 11, United States Code is amended to read as follows:

''(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay or damages attributable to any period of time occurring after the date of commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which the award is based or to whether any services were rendered on or after the commencement of the case, including an award by a court under section 2901 of title 29, United States Code, of up to 60 days' pay and benefits following a layoff that occurred or commenced at a time when such award period includes a period on or after the commencement of the case, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees or of nonpayment of domestic support obligations during the case under this title.''.

TITLE II—REDUCING EMPLOYEES' AND RETIREES' LOSSES

SEC. 201. REJECTION OF COLLECTIVE BARGAINING AGREEMENTS.

Section 1113 of title 11, United States Code, is amended by striking subsections (a) through (f) and inserting the following:

''(a) The debtor in possession, or the trustee if one has been appointed under this chapter, other than a trustee in a case covered by subchapter IV of this chapter and by title I of the Railway Labor Act, may reject a collective bargaining agreement only in accordance with this section. Hereinafter in this section, a reference to the trustee includes a reference to the debtor in possession.

''(b) No provision of this title shall be construed to permit the trustee to unilaterally terminate or alter any provision of a collective bargaining agreement before complying with this section. The trustee shall timely pay all monetary obligations arising under the terms of the collective bargaining agreement. Any such payment required to be made before a plan confirmed under section 1129 is effective has the status of an allowed administrative expense under section 503.

''(c)(1) If the trustee seeks modification of a collective bargaining agreement, then the trustee shall provide notice to the labor organization representing the employees covered by the agreement that modifications are being proposed under this section, and shall promptly provide an initial proposal for modifications to the agreement. Thereafter, the trustee shall confer in good faith with the labor organization, at reasonable times and for a reasonable period in light of the complexity of the case, in attempting to reach mutually acceptable modifications of such agreement.

''(2) The initial proposal and subsequent proposals by the trustee for modification of a collective bargaining agreement shall be based upon a business plan for the reorganization of the debtor, and shall reflect the most complete and reliable information available. The trustee shall provide to the labor organization all information that is relevant for negotiations. The court may enter a protective order to prevent the disclosure of information if disclosure could compromise the debtor's position with respect to its competitors in the industry, subject to the needs of the labor organization to evaluate the trustee's proposals and any application for rejection of the agreement or for interim relief pursuant to this section.

''(3) In consideration of Federal policy encouraging the practice and process of collective bargaining and in recognition of the bargained-for expectations of the employees covered by the agreement, modifications proposed by the trustee—

''(A) shall be proposed only as part of a program of workforce and nonworkforce cost savings devised for the reorganization of the debtor, including savings in management personnel costs;

''(B) shall be limited to modifications designed to achieve a specified aggregate financial contribution for the employees covered by the agreement (taking into consideration any labor cost savings negotiated within the 12-month period before the filing of the petition), and shall be not more than the minimum savings essential to permit the debtor to exit bankruptcy, such that confirmation of a plan of reorganization is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor (or any successor to the debtor) in the short term; and

''(C) shall not be disproportionate or overly burden the employees covered by the agreement, either in the amount of the cost savings sought from such employees or the nature of the modifications.

''(d)(1) If, after a period of negotiations, the trustee and the labor organization have not reached an agreement over mutually satisfactory modifications, and further negotiations are not likely to produce mutually satisfactory modifications, the trustee may file a motion seeking rejection of the collective bargaining agreement after notice and a hearing. Absent agreement of the parties, no such hearing shall be held before the expiration of the 21-day period beginning on the date on which notice of the hearing is provided to the labor organization representing the employees covered by the agreement. Only the debtor and the labor organization may appear and be heard at such hearing. An application for rejection shall seek rejection effective upon the entry of an order granting the relief.

''(2) In consideration of Federal policy encouraging the practice and process of collective bargaining and in recognition of the bargained-for expectations of the employees covered by the agreement, the court may grant a motion seeking rejection of a collective bargaining agreement only if, based on clear and convincing evidence —

''(A) the court finds that the trustee has complied with the requirements of subsection (c);

''(B) the court has considered alternative proposals by the labor organization and has concluded that such proposals do not meet the requirements of paragraph (3)(B) of subsection (c);

''(C) the court finds that further negotiations regarding the trustee's proposal or an alternative proposal by the labor organization are not likely to produce an agreement;

''(D) the court finds that implementation of the trustee's proposal shall not—

''(i) cause a material diminution in the purchasing power of the employees covered by the agreement;

''(ii) adversely affect the ability of the debtor to retain an experienced and qualified workforce; or

''(iii) impair the debtor's labor relations such that the ability to achieve a feasible reorganization would be compromised; and

''(E) the court concludes that rejection of the agreement and immediate implementation of the trustee's proposal is essential to permit the debtor to exit bankruptcy, such that confirmation of a plan of reorganization is not likely to be followed by liquidation, or the need for further financial reorganization, of the debtor (or any successor to the debtor) in the short term.

''(3) If the trustee has implemented a program of incentive pay, bonuses, or other financial returns for insiders, senior executive officers, or the 20 next most highly compensated employees or consultants providing services to the debtor during the bankruptcy, or such a program was implemented within 180 days before the date of the filing of the petition, the court shall presume that the trustee has failed to satisfy the requirements of subsection (c)(3)(C).

''(4) In no case shall the court enter an order rejecting a collective bargaining agreement that would result in modifications to a level lower than the level proposed by the trustee in the proposal found by the court to have complied with the requirements of this section.

''(5) At any time after the date on which an order rejecting a collective bargaining agreement is entered, or in the case of an agreement entered into between the trustee and the labor organization providing mutually satisfactory modifications, at any time after such agreement has been entered into, the labor organization may apply to the court for an order seeking an increase in the level of wages or benefits, or relief from working conditions, based upon changed circumstances. The court shall grant the request only if the increase or other relief is not inconsistent with the standard set forth in paragraph (2)(E).

''(e) During a period in which a collective bargaining agreement at issue under this section continues in effect, and if essential to the continuation of the debtor's business or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim changes in the terms, conditions, wages, benefits, or work rules provided by the collective bargaining agreement. Any hearing under this subsection shall be scheduled in accordance with the needs of the trustee. The implementation of such interim changes shall not render the application for rejection moot.

''(f) Rejection of a collective bargaining agreement constitutes a breach of the agreement, and shall be effective no earlier than the entry of an order granting such relief. Notwithstanding the foregoing, solely for purposes of determining and allowing a claim arising from the rejection of a collective bargaining agreement, rejection shall be treated as rejection of an executory contract under section 365(g) and shall be allowed or disallowed in accordance with section 502(g)(1). No claim for rejection damages shall be limited by section 502(b)(7). Economic self-help by a labor organization shall be permitted upon a court order granting a motion to reject a collective bargaining agreement under subsection (d) or pursuant to subsection (e), and no provision of this title or of any other provision of Federal or State law may be construed to the contrary.

''(g) The trustee shall provide for the reasonable fees and costs incurred by a labor organization under this section, upon request and after notice and a hearing.

''(h) A collective bargaining agreement that is assumed shall be assumed in accordance with section 365.''.

SEC. 202. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting '', whether or not the debtor asserts a right to unilaterally modify such payments under such plan, fund, or program'' before the period at the end;

(2) in subsection (b)(2), by inserting after ''section'' the following: '', and a labor organization serving as the authorized representative under subsection (c)(1),'';

(3) in subsection (f), by striking ''(f)'' and all that follows through paragraph (2) and inserting the following:

''(f)(1) If a trustee seeks modification of retiree benefits, then the trustee shall provide a notice to the authorized representative that modifications are being proposed pursuant to this section, and shall promptly provide an initial proposal. Thereafter, the trustee shall confer in good faith with the authorized representative at reasonable times and for a reasonable period in light of the complexity of the case in attempting to reach mutually satisfactory modifications.

''(2) The initial proposal and subsequent proposals by the trustee shall be based upon a business plan for the reorganization of the debtor and shall reflect the most complete and reliable information available. The trustee shall provide to the authorized representative all information that is relevant for the negotiations. The court may enter a protective order to prevent the disclosure of information if disclosure could compromise the debtor's position with respect to its competitors in the industry, subject to the needs of the authorized representative to evaluate the trustee's proposals and an application pursuant to subsection (g) or (h).

''(3) Modifications proposed by the trustee—

''(A) shall be proposed only as part of a program of workforce and nonworkforce cost savings devised for the reorganization of the debtor, including savings in management personnel costs;

''(B) shall be limited to modifications that are designed to achieve a specified aggregate financial contribution for the retiree group represented by the authorized representative (taking into consideration any cost savings implemented within the 12-month period before the date of filing of the petition with respect to the retiree group), and shall be no more than the minimum savings essential to

permit the debtor to exit bankruptcy, such that confirmation of a plan of reorganization is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor (or any successor to the debtor) in the short term; and

''(C) shall not be disproportionate or overly burden the retiree group, either in the amount of the cost savings sought from such group or the nature of the modifications.'';

(4) in subsection (g)—

(A) by striking ''(g)'' and all that follows through the semicolon at the end of paragraph (3) and inserting the following:

''(g)(1) If, after a period of negotiations, the trustee and the authorized representative have not reached agreement over mutually satisfactory modifications and further negotiations are not likely to produce mutually satisfactory modifications, then the trustee may file a motion seeking modifications in the payment of retiree benefits after notice and a hearing. Absent agreement of the parties, no such hearing shall be held before the expiration of the 21-day period beginning on the date on which notice of the hearing is provided to the authorized representative. Only the debtor and the authorized representative may appear and be heard at such hearing.

''(2) The court may grant a motion to modify the payment of retiree benefits only if, based on clear and convincing evidence—

''(A) the court finds that the trustee has complied with the requirements of subsection (f);

''(B) the court has considered alternative proposals by the authorized representative and has determined that such proposals do not meet the requirements of subsection (f)(3)(B);

''(C) the court finds that further negotiations regarding the trustee's proposal or an alternative proposal by the authorized representative are not likely to produce a mutually satisfactory agreement;

''(D) the court finds that implementation of the proposal shall not cause irreparable harm to the affected retirees; and

''(E) the court concludes that an order granting the motion and immediate implementation of the trustee's proposal is essential to permit the debtor to exit bankruptcy, such that confirmation of a plan of reorganization is not likely to be followed by liquidation, or the need for further financial reorganization, of the debtor (or a successor to the debtor) in the short term.

''(3) If a trustee has implemented a program of incentive pay, bonuses, or other financial returns for insiders, senior executive officers, or the 20 next most highly-compensated employees or consultants providing services to the debtor during the bankruptcy, or such a program was implemented within 180 days before the date of the filing of the petition, the court shall presume that the trustee has failed to satisfy the requirements of subparagraph (f)(3)(C).''; and

(B) by striking ''except that in no case'' and inserting the following:

''(4) In no case''; and

(5) by striking subsection (k) and redesignating subsections (l) and (m) as subsections (k) and (l), respectively.

SEC. 203. PROTECTION OF EMPLOYEE BENEFITS IN A SALE OF ASSETS.

Section 363(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) In approving a sale under this subsection, the court shall consider the extent to which a bidder has offered to maintain existing jobs, preserve terms and conditions of employment, and assume or match pension and retiree health benefit obligations in determining whether an offer constitutes the highest or best offer for such property.''.

SEC. 204. CLAIM FOR PENSION LOSSES.

Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(l) The court shall allow a claim asserted by an active or retired participant, or by a labor organization representing such participants, in a defined benefit plan terminated under section 4041 or 4042 of the Employee Retirement Income Security Act of 1974, for any shortfall in pension benefits accrued as of the effective date of the termination of such pension plan as a result of the termination of the plan and limitations upon the payment of benefits imposed pursuant to section 4022 of such Act, notwithstanding any claim asserted and collected by the Pension Benefit Guaranty Corporation with respect to such termination.

''(m) The court shall allow a claim of a kind described in section 101(5)(C) by an active or retired participant in a defined contribution plan (within the meaning of section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)), or by a labor organization representing such participants. The amount of such claim shall be measured by the market value of the stock at the time of contribution to, or purchase by, the plan and the value as of the commencement of the case.''.

SEC. 205. PAYMENTS BY SECURED LENDER.

Section 506(c) of title 11, United States Code, is amended by adding at the end the following: ''If employees have not received wages, accrued vacation, severance, or other benefits owed under the policies and practices of the debtor, or pursuant to the terms of a collective bargaining agreement, for services rendered on and after the date of the commencement of the case, then such unpaid obligations shall be deemed necessary costs and expenses of preserving, or disposing of, property securing an allowed secured claim and shall be recovered even if the trustee has otherwise waived the provisions of this subsection under an agreement with the holder of the allowed secured claim or a successor or predecessor in interest.''.

SEC. 206. PRESERVATION OF JOBS AND BENEFITS.

Title 11, United States Code, is amended—

(1) by inserting before section 1101 the following:

''SEC. 1100. STATEMENT OF PURPOSE.

''A debtor commencing a case under this chapter shall have as its principal purpose the reorganization of its business to preserve going concern value to the maximum extent possible through the productive use of its assets and the preservation of jobs that will sustain productive economic activity.'';

(2) in section 1129(a), as amended by section 104, by adding at the end the following:

''(18) The debtor has demonstrated that the reorganization preserves going concern value to the maximum extent possible through the productive use of the debtor's assets and preserves jobs that sustain productive economic activity.'';

(3) in section 1129(c), by striking the last sentence and inserting the following: ''If the requirements of subsections (a) and (b) are met with respect to more than 1 plan, the court shall, in determining which plan to confirm—

''(1) consider the extent to which each plan would preserve going concern value through the productive use of the debtor's assets and the preservation of jobs that sustain productive economic activity; and

''(2) confirm the plan that better serves such interests.

A plan that incorporates the terms of a settlement with a labor organization representing employees of the debtor shall presumptively constitute the plan that satisfies this subsection.''; and

(4) in the table of sections for chapter 11, by inserting the following before the item relating to section 1101:

''1100. Statement of purpose.''.

SEC. 207. TERMINATION OF EXCLUSIVITY.

Section 1121(d) of title 11, United States Code, is amended by adding at the end the following:

''(3) For purposes of this subsection, cause for reducing the 120-day period or the 180-day period includes the following:

''(A) The filing of a motion pursuant to section 1113 seeking rejection of a collective bargaining agreement if a plan based upon an alternative proposal by the labor organization is reasonably likely to be confirmed within a reasonable time.

''(B) The proposed filing of a plan by a proponent other than the debtor, which incorporates the terms of a settlement with a labor organization if such plan is reasonably likely to be confirmed within a reasonable time.''.

TITLE III—RESTRICTING EXECUTIVE COMPENSATION PROGRAMS

SEC. 301. EXECUTIVE COMPENSATION UPON EXIT FROM BANKRUPTCY.

Section 1129(a) of title 11, United States Code, is amended—

(1) in paragraph (4), by adding at the end the following: ''Except for compensation subject to review under paragraph (5), payments or other distributions under the plan to or for the benefit of insiders, senior executive officers, and any of the 20 next most highly compensated employees or consultants providing services to the debtor, shall not be approved except as part of a program of payments or distributions generally applicable to employees of the debtor, and only to the extent that the court determines that such payments are not excessive or disproportionate compared to distributions to the debtor's nonmanagement workforce.''; and

(2) in paragraph (5)—

(A) in subparagraph (A)(ii), by striking ''and'' at the end; and

(B) in subparagraph (B), by striking the period at the end and inserting the following: ''; and

''(C) the compensation disclosed pursuant to subparagraph (B) has been approved by, or is subject to the approval of, the court as reasonable when compared to individuals holding comparable positions at comparable companies in the same industry and not disproportionate in light of economic concessions by the debtor's nonmanagement workforce during the case.''.

SEC. 302. LIMITATIONS ON EXECUTIVE COMPENSATION ENHANCEMENTS.

Section 503(c) of title 11, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting '', a senior executive officer, or any of the 20 next most highly compensated employees or consultants'' after ''an insider'';

(B) by inserting ''or for the payment of performance or incentive compensation, or a bonus of any kind, or other financial returns designed to replace or enhance incentive, stock, or other compensation in effect before the date of the commencement of the case,'' after ''remain with the debtor's business,''; and

(C) by inserting ''clear and convincing'' before ''evidence in the record''; and

(2) by amending paragraph (3) to read as follows:

''(3) other transfers or obligations, to or for the benefit of insiders, senior executive officers, managers, or consultants providing services to the debtor, in the absence of a finding by the court, based upon clear and convincing evidence, and without deference to the debtor's request for such payments,

that such transfers or obligations are essential to the survival of the debtor's business or (in the case of a liquidation of some or all of the debtor's assets) essential to the orderly liquidation and maximization of value of the assets of the debtor, in either case, because of the essential nature of the services provided, and then only to the extent that the court finds such transfers or obligations are reasonable compared to individuals holding comparable positions at comparable companies in the same industry and not disproportionate in light of economic concessions by the debtor's nonmanagement workforce during the case.''.

SEC. 303. ASSUMPTION OF EXECUTIVE BENEFIT PLANS.

Section 365 of title 11, United States Code, is amended—

(1) in subsection (a), by striking ''and (d)'' and inserting ''(d), (q), and (r)''; and

(2) by adding at the end the following:

''(q) No deferred compensation arrangement for the benefit of insiders, senior executive officers, or any of the 20 next most highly compensated employees of the debtor shall be assumed if a defined benefit plan for employees of the debtor has been terminated pursuant to section 4041 or 4042 of the Employee Retirement Income Security Act of 1974, on or after the date of the commencement of the case or within 180 days before the date of the commencement of the case.

''(r) No plan, fund, program, or contract to provide retiree benefits for insiders, senior executive officers, or any of the 20 next most highly compensated employees of the debtor shall be assumed if the debtor has obtained relief under subsection (g) or (h) of section 1114 to impose reductions in retiree benefits or under subsection (d) or (e) of section 1113 to impose reductions in the health benefits of active employees of the debtor, or reduced or eliminated health benefits for active or retired employees within 180 days before the date of the commencement of the case.''.

SEC. 304. RECOVERY OF EXECUTIVE COMPENSATION.

Title 11, United States Code, is amended by inserting after section 562 the following:

''SEC. 563. RECOVERY OF EXECUTIVE COMPENSATION.

''(a) If a debtor has obtained relief under subsection (d) of section 1113, or subsection (g) of section 1114, by which the debtor reduces the cost of its obligations under a collective bargaining agreement or a plan, fund, or program for retiree benefits as defined in section 1114(a), the court, in granting relief, shall determine the percentage diminution in the value of the obligations when compared to the debtor's obligations under the collective bargaining agreement, or with respect to retiree benefits, as of the date of the commencement of the case under this title before granting such relief. In making its determination, the court shall include reductions in benefits, if any, as a result of the termination pursuant to section 4041 or 4042 of the Employee Retirement Income Security Act of 1974, of a defined benefit plan administered by the debtor, or for which the debtor is a contributing employer, effective at any time on or after 180 days before the date of the commencement of a case under this title. The court shall not take into account pension benefits paid or payable under of such Act as a result of any such termination.

''(b) If a defined benefit pension plan administered by the debtor, or for which the debtor is a contributing employer, has been terminated pursuant to section 4041 or 4042 of the Employee Retirement Income Security Act of 1974, effective at any time on or after 180 days before the date of the commencement of a case under this title, but a debtor has not obtained relief under subsection (d) of section 1113, or subsection (g) of section 1114, then the court, upon motion of a party in interest, shall determine the percentage diminution in the value of benefit obligations when compared to the total benefit liabilities before such termination. The court shall not take into account pension benefits paid or payable under title IV of the Employee Retirement Income Security Act of 1974 as a result of any such termination.

''(c) Upon the determination of the percentage diminution in value under subsection (a) or (b), the estate shall have a claim for the return of the same percentage of the compensation paid, directly or indirectly (including any transfer to a self-settled trust or similar device, or to a nonqualified deferred compensation plan under section 409A(d)(1) of the Internal Revenue Code of 1986) to any officer of the debtor serving as member of the board of directors of the debtor within the year before the date of the commencement of the case, and any individual serving as chairman or lead director of the board of directors at the time of the granting of relief under section 1113 or 1114 or, if no such relief has been granted, the termination of the defined benefit plan.

''(d) The trustee or a committee appointed pursuant to section 1102 may commence an action to recover such claims, except that if neither the trustee nor such committee commences an action to recover such claim by the first date set for the hearing on the confirmation of plan under section 1129, any party in interest may apply to the court for authority to recover such claim for the benefit of the estate. The costs of recovery shall be borne by the estate.

''(e) The court shall not award postpetition compensation under section 503(c) or otherwise to any person subject to subsection (c) if there is a reasonable likelihood that such compensation is intended to reimburse or replace compensation recovered by the estate under this section.''.

SEC. 305. PREFERENTIAL COMPENSATION TRANSFER.

Section 547 of title 11, United States Code, is amended by adding at the end the following:

''(j) The trustee may avoid a transfer to or for the benefit of an insider (including an obligation incurred for the benefit of an insider under an employment contract) made in anticipation of bankruptcy, or a transfer made in anticipation of bankruptcy to a consultant who is formerly an insider and who is retained to provide services to an entity that becomes a debtor (including an obligation under a contract to provide services to such entity or to a debtor) made or incurred on or within 1 year before the filing of the petition. No provision of subsection (c) shall constitute a defense against the recovery of such transfer. The trustee or a committee appointed pursuant to section 1102 may commence an action to recover such transfer, except that, if neither the trustee nor such committee commences an action to recover such transfer by the time of the commencement of a hearing on the confirmation of a plan under section 1129, any party in interest may apply to the court for authority to recover the claims for the benefit of the estate. The costs of recovery shall be borne by the estate.''.

TITLE IV—OTHER PROVISIONS

SEC. 401. UNION PROOF OF CLAIM.

Section 501(a) of title 11, United States Code, is amended by inserting '', including a labor organization,'' after ''A creditor''.

SEC. 402. EXCEPTION FROM AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (27), by striking ''and'' at the end;

(2) in paragraph (28), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(29) of the commencement or continuation of a grievance, arbitration, or similar dispute resolution proceeding established by a collective bargaining agreement that was or could have been commenced against the debtor before the filing of a case under this title, or the payment or enforcement of an award or settlement under such proceeding.''.

By Mr. DODD (for himself and Mr. UDALL, of New Mexico):

S.J. Res. 28. A joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

Mr. DODD. Mr. President, I rise to discuss a constitutional amendment I am introducing today, along with my colleague Senator TOM UDALL, in the wake of the U.S. Supreme Court's recent Citizens United v. Federal Election Commission decision. This proposed amendment would simply authorize Congress to regulate the raising and spending of money for Federal political campaigns—including independent expenditures—and allow States to regulate such spending at their level. It would also provide for implementation and enforcement of the amendment through appropriate legislation. I invite my colleagues on both sides of the aisle to join us by cosponsoring the amendment.

Let me begin by noting that I am a firm believer in the sanctity of the First Amendment. I believe we must continue to do all we can to protect the free speech rights of all Americans. I do not suggest changing the language of the First Amendment, which I revere. But I do not believe that money is speech, nor do I believe that corporations should be treated exactly the same as individual Americans when it comes to protected, fundamental speech rights. That is what the Supreme Court has effectively now held.

I recognize that amending the Constitution is a long-term undertaking, and that this effort will not likely bear fruit during my remaining time in this body. Reinhold Niebuhr said that nothing worth doing is completed in our lifetime; I would add much less during a Senate term.' I hope that in the wake of this court decision we can begin that comprehensive reform effort; I know that it would be worth doing. The Constitution itself establishes a long and complex process for its own amendment, including approval by Congress and the States, and I am proposing to use that process to save our democratic system of government, and ultimately our republic, from the continued corrosion of special interest influence.

I am introducing the amendment because I believe that constitutional

questions deserve constitutional answers. While I intend to support interim legislative steps to address urgently those issues that can be addressed in the wake of this decision, including increased disclosure requirements, further limitations to prevent foreign corporations' influence on our elections, and other measures, I think the scope of such efforts is limited by the court's sweeping, even radical conclusions in this case.

Make no mistake, as much of the commentary surrounding it suggests, the Citizens United case is one of the most radical decisions in the court's long history of campaign finance reform jurisprudence. It overturns 100 years of precedents to come to the unjustified conclusion that corporations deserve the same free speech protections as individual Americans. It opens the door to corporations spending vast amounts of money directly from their treasuries to influence Federal elections, and thereby influence Federal officeholders and policy decisions, in ways much more direct and concentrated than is the case now through corporate and union political action committees. If you are concerned now about the undue special interest influence of big banks, energy companies, health insurance firms, pharmaceutical firms and other special interests on our political process, just wait until these entities can spend millions of dollars directly to elect or defeat officeholders. If you are concerned about the special interest-generated paralysis of our legislative process, wait until you see the results of this decision. As one distinguished Republican election lawyer who opposes the decision recently said, it will be the ''wild, wild west.''

Perhaps most radical is the court's conclusion that corporations are legal ''persons'' seemingly deserving of the exact same free speech protections as all Americans. This decision notwithstanding, corporations are not people. A first-year law student will note that corporations are basically a legal fiction, entities created with certain limited legal rights designed to enable them to operate in the business world: to enter into and enforce contracts, to conduct transactions, and the like. They can't vote or think or speak or run for office. They only make political and policy decisions through their officers and shareholders, informed by their lobbyists and others. They should not enjoy the same fundamental free speech protections that individual Americans enjoy in our political discourse, or the ability to spend unlimited funds directly from large corporate treasuries for that purpose. As others have observed, the framers could not have imagined, and would not have wanted, a system in which corporations could pour literally billions of dollars into elections and thereby exercise grossly outsized influence over the fate of our elected representatives. Such a system does not promote free speech; it mocks it.

I have worked for decades to reform our campaign finance laws, with colleagues and former colleagues like Senators Boren, Mitchell, BYRD, Daschle, FEINGOLD, KERRY, MCCAIN, Dole, COCHRAN, and others. Time and again we have developed comprehensive bipartisan efforts, only to have them frustrated by a small minority of Senators, or in one case by a veto exercised by the first President Bush. I have served my party as head of the Democratic National Committee, and so I have seen the problems of our current campaign finance system from a variety of perspectives.

In previous debates I have rehearsed the problems with our current system. They include the exponentially increasing costs of campaigns. The endless time we must spend to travel and make calls to raise money, which is then spent mostly on expensive and increasingly negative TV ads in our states. The ways in which special interests buy access and influence, and how such influence erodes the trust and confidence of Americans in our democracy. These problems are systemic, pervasive and fundamental. They require comprehensive, fundamental reforms. A constitutional amendment would create the conditions for the possibility of real statutory reform that could then be adjusted as we go along, to address new abuses and problems as they arise.

I attended the Supreme Court's oral arguments in this case, and I heard in the pointed questions of the Justices who composed this 5–4 majority the portents of this radical decision. But even then I did not anticipate fully how breathtakingly far the court would reach.

That extended reach was not only unwise and unjustified, it was also unnecessary. This court majority, whose members have so forcefully decried judicial activism, might have taken a less radical approach, and resolved the legal issue before them without drawing such sweeping conclusions. Instead, they chose to ride roughshod over decades of the court's own legal precedents and the principle of stare decisis. That is why I believe it is fair to say, as Justice Stevens did in his stinging dissent in this case, that this case was brought by the Justices themselves. I urge my colleagues to read Justice Stevens' detailed, powerful and carefully reasoned dissent. In it, among other things, he observes that the only thing that has really changed since the Supreme Court made its rulings in the Austin, 1990, and McConnell, 2003, decisions, upholding the corporate campaign spending ban, is the composition of the Supreme Court. Instead of deciding the case based on the narrow issues before them, in a raw display of activist judicial power the majority in this sharply divided court took the rare step of asking for the case to be broadened and re-argued, and then issued this sweeping decision.

With this decision, I believe the court has seriously jeopardized its own integrity, already damaged by its hugely controversial decision in Bush v. Gore, and done enormous harm to our democracy—harm which will only become clearer to Americans in the next few years as close Congressional and state races are decided by the spending of corporate interests.

The public reaction to this court decision has been swift and strong, I think because Americans intuitively recognize that it represents an enormous transfer of power away from citizens to wealthy corporations. I saw a poll recently which showed broad opposition to the decision among all Americans—Democrats, Republicans and Independents alike. The poll showed that it was opposed by 66 percent of Democrats, 63 percent of Republicans, and 72 percent of Independents. Americans intuitively recognize the dangers of a decision to allow corporations to spend unlimited funds against candidates. They see this decision's potential to worsen the problem of special interest influence, and to further erode trust and confidence in that process. Though this hasn't been commented on too broadly in the media reports following this decision, I also believe Americans recognize that the next logical step the Supreme Court could take in the wake of this decision is to go beyond this decision which overturns the ban on corporate independent expenditures in campaigns to allow direct corporate contributions to candidates.

This constitutional amendment is a version of one passionately championed for years by Senator Hollings, and updated by Senator SCHUMER in the last Congress. I have decided to reintroduce it at this point in our debate to emphasize that even though I support efforts to do what we can in the interim to reform our campaign finance laws, ultimately we must cut through the underbrush and go directly to the heart of the problem: the Supreme Court's decision in Buckley vs. Valeo and other subsequent decisions which conflate money with speech, and this most recent decision in Citizens United which lifts the long-time ban on direct corporate spending in campaigns.

In these decisions, the Supreme Court has basically made it impossible for Americans to have what they have repeatedly said they want: reasonable regulations of campaign contributions and expenditures which do not either directly or indirectly limit the ideas that may be expressed in the public realm. I submit that such regulations would actually broaden the public debate on a number of issues by freeing it from the narrow confines dictated by special interest money. With its decisions, the Supreme Court has effectively neutered comprehensive efforts to control the ever-spiraling money chase, and has forced legislation intended to control the cancerous effects of money in politics to be more complicated and convoluted than necessary. The complications we are

forced to resort to, in turn, create new opportunities for abuse.

Even without a constitutional amendment, we can try to make some progress. For example, I think we made some decent progress on the McCain-Feingold legislation, even despite the Court's decisions since 2002 narrowing the reach of that law. But we cannot enact truly comprehensive legislation that will get to the heart of the problem under current court rulings. I wish we could. I have long supported a clean elections system of public financing for Congressional campaigns which would integrate spending limits, citizen financing, and other basic reforms. That is the way I think we should go. There are other approaches. But the fact is—and I am sorry for this—that unless the Supreme Court again reverses itself, we cannot get the comprehensive legislation we really need unless we first adopt an amendment to the Constitution.

This amendment is neutral on what kind of regulation of campaigns would be allowed. It simply authorizes such regulation, and leaves it to Congress and state legislatures to determine what might be appropriate. That is where such decisions should be made on these issues: by the people's representatives in Congress and in state legislatures. That is why I think amending the Constitution and enabling Congress to make those decisions is the first step if we are to make real progress on this front.

Others will argue for a narrower constitutional amendment to focus primarily on the issue of corporate expenditures. That is another way to address the issue, though I believe it would still leave many unanswered questions about Congress' ability to regulate broadly in this area. We should have a full and robust debate about all of the options.

Someday we may adopt this idea, if the situation continues to run out of hand. And we may look back to this court decision in 2010 and mark it as an historic watershed, a catalyst for major change. I sincerely hope that will be true, for the sake of this institution and our democratic process, and for the sake of our country. I commend the amendment to my colleagues' attention, and urge them to consider cosponsoring it.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the text of the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 28

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, 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 seven years after the date of its submission by the Congress:

''ARTICLE—

''SECTION 1. Congress shall have power to regulate the raising and spending of money with respect to Federal elections, including through setting limits on—

''(1) the amount of contributions to candidates for nomination for election to, or for election to, Federal office; and

''(2) the amount of expenditures that may be made by, in support of, or in opposition to such candidates.

''SECTION 2. A State shall have power to regulate the raising and spending of money with respect to State elections, including through setting limits on—

''(1) the amount of contributions to candidates for nomination for election to, or for election to, State office; and

''(2) the amount of expenditures that may be made by, in support of, or in opposition to such candidates.

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

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 421—SUPPORTING THE GOALS AND IDEALS OF ''NATIONAL GUARD YOUTH CHALLENGE DAY''

Ms. LANDRIEU (for herself, Mrs. LINCOLN, Mr. CHAMBLISS, Mrs. SHAHEEN, Ms. MURKOWSKI, Mr. BARRASSO, Mr. BYRD, Mr. ISAKSON, and Mr. BENNETT) submitted the following resolution; which was considered and agreed to:

S. RES. 421

Whereas ''National Guard Youth Challenge Day'' will be celebrated on February 24, 2010;

Whereas high school dropouts need guidance, encouragement, and avenues toward self-sufficiency and success;

Whereas over 1,300,000 students drop out of high school each year, costing this Nation more than $335,000,000,000 in lost wages, revenues, and productivity over the lifetimes of these individuals;

Whereas the life expectancy for a high school dropout is 9 years less than that of a high school graduate, and a high school dropout can expect to earn about $19,000 each year, compared to approximately $28,000 for a high school graduate;

Whereas 54 percent of high school dropouts were jobless during an average month in 2008, with 40 percent having no job for the entire year;

Whereas each annual class of high school dropouts cost this Nation over $17,000,000,000 in publicly subsidized health care over the course of their lives;

Whereas approximately 90 percent of individuals in prisons throughout the United States are high school dropouts;

Whereas the goal of the National Guard Youth Foundation, a non-profit 501(c)(3) organization, is to improve the education, life skills, and employment potential of high school dropouts in the United States through public awareness, scholarships, higher education assistance, and job development programs;

Whereas the National Guard Youth Challenge Program provides military-based training, supervised work experience, assistance in obtaining a high school diploma or equivalent degree, and development of leadership qualities, as well as promotion of citizenship, fellowship, service to their community, life skills training, health and physical education, positive relationships with adults and peers, and career planning;

Whereas the National Guard Youth Challenge Program represents a successful joint effort between States and the Federal Government;

Whereas since 1993, the National Guard Youth Challenge Program has developed 32 programs in 27 States and Puerto Rico;

Whereas since 1993, over 92,850 young individuals have successfully graduated from the program, with 80 percent earning their high school diploma or GED certificate, 24 percent going to college, 18 percent joining the military, and 57 percent entering the workforce with career jobs;

Whereas the National Guard Youth Challenge Program has successfully helped high school dropouts in this Nation; and

Whereas the National Guard Youth Challenge Program can play a larger role in providing assistance to the youth of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of ''National Guard Youth Challenge Day''; and

(2) calls upon the people of the United States to observe ''National Guard Youth Challenge Day'' on February 24, 2010, with appropriate ceremonies and respect.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3326. Mr. REID proposed an amendment to the bill H.R. 1299, to make technical corrections to the laws affecting certain administrative authorities of the United States Capitol Police, and for other purposes.

SA 3327. Mr. REID proposed an amendment to amendment SA 3326 proposed by Mr. REID to the bill H.R. 1299, supra.

SA 3328. Mr. REID proposed an amendment to the bill H.R. 1299, supra.

SA 3329. Mr. REID proposed an amendment to the bill H.R. 1299, supra.

SA 3330. Mr. REID proposed an amendment to amendment SA 3329 proposed by Mr. REID to the bill H.R. 1299, supra.

SA 3331. Mr. REID proposed an amendment to the bill H.R. 3961, to reform the Medicare SGR payment system for physicians and to reinstitute and update the Pay-As-You-Go requirement of budget neutrality on new tax and mandatory spending legislation, enforced by the threat of annual, automatic sequestration.

SA 3332. Mr. REID proposed an amendment to the bill H.R. 3961, supra.

TEXT OF AMENDMENTS

SA 3326. Mr. REID proposed an amendment to the bill H.R. 1299, to make technical corrections to the laws affecting certain administrative authorities of the United States Capitol Police, and for other purposes; as follows:

At the end of the amendment, insert the following:

The provisions of this act shall become effective 5 days after enactment

SA 3327. Mr. REID proposed an amendment to amendment SA 3326 proposed by Mr. REID to the bill H.R. 1299, to make technical corrections to the laws affecting certain administrative authorities of the United States Capitol Police, and for other purposes; as follows:

In the amendment, strike ''5'' and insert ''4''.

SA 3328. Mr. REID proposed an amendment to the bill H.R. 1299, to