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Senate

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

If my people, which are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land.—II Chronicles 7:14.

God of Abraham, Isaac, and Israel, God of our fathers, we are grateful for this Old Testament promise giving us the formula for the healing of a nation. In the light of this promise, thank Thee for the National Prayer Breakfast this morning which brought together leadership from every State and more than 150 nations in recognition of the indispensability of prayer.

Grant us to see, O God, that the way to national health—socially, culturally, and economically—is the way of prayer. Give us, who profess to be Your people, the grace to humble ourselves, to pray, to seek Your face, and to turn from the secularism which obliterates all sense of God and faith and spiritual reality.

Governor of the nations, lead us in the way that will bring healing to our land.

We pray in the name of the Lord of History. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

RESERVATION OF LEADER TIME

Mr. LOTT. Mr. President, this morning the time for the two leaders has been reserved.

SCHEDULE

Mr. LOTT. There will now be a period for the transaction of routine morning business until the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each with the following Senators permitted to speak for the designated times: Senator MURKOWSKI for 20 minutes, Senator CONRAD for 15 minutes, Senator DORGAN for 10 minutes, and Senator CAMPBELL for 10 minutes.

At 10:30 a.m. the Senate will resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

Mr. President, I seek recognition at this time in my own right, and I ask unanimous consent that my remarks be printed in the RECORD after those of Senator MURKOWSKI and Senator JOHNSTON, with regard to the Department of Energy Risk Management Act of 1995.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

The Senator from Mississippi is recognized.

Mr. LOTT. I thank the Chair.

(The remarks of Mr. LOTT pertaining to the introduction of S. 333 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. MURKOWSKI addressed the Chair.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes.

Under the previous order, the Senator from Alaska is recognized to speak for up to 20 minutes.

Mr. MURKOWSKI. Mr. President, I wish the Chair a good day.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 333 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota [Mr. CONRAD] is recognized for up to 15 minutes.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 332 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.)

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota [Mr. DORGAN] is recognized to speak for up to 10 minutes.

FEDERAL RESERVE BOARD ACTION

Mr. DORGAN. Mr. President, yesterday I came to the floor before the Federal Reserve Board had finalized action, worried about whether they would once again make another very

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

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large mistake with respect to increasing interest rates and further injuring the American economy.

Of course, we know from news yesterday that the Fed raised short-term interest rates again. Seven times in a year the Federal Reserve Board has met in secret and then told the American people they have decided that for the country's own good, interest rates must once again go up.

I was looking again at the Constitution, and the Constitution under article I, section 8, says: ''The Congress shall have the power to coin money, regulate the value thereof,'' et cetera, et cetera. The interesting thing about the Federal Reserve Board, it is a creature created by the Congress in the early 1900's with a national promise that this will not become a strong central bank. Of course, it has become a strong central bank, accountable to no one.

I said yesterday that they apparently view themselves as a set of human brake pedals, whose mission in life is to slow down the American economy. Well, unfortunately they will succeed beyond their wildest dreams. I think they risk throwing this economy into another recession.

More importantly, their actions mean that virtually every American will pay more credit card interest; those millions of families out there with adjustable rate mortgages will find that their home payments are going to go up. I had a fellow tell me recently, ''I am paying $115 a month more now than a year ago because my adjustable rate mortgage was adjusted.'' And I said that resulted not from some democratic action, not some concerted action in Congress where there was a big debate and a discussion about what should be done; that happened because of a group of central bankers. They went into a room, shut the door, and made a decision outside of the view of the public citizens to increase interest rates.

It will impact virtually every American. But more importantly, in my judgment, it risks throwing this country back into a recession.

I just do not understand why the current Federal Reserve Board apparently feels unemployment should never go below 5 percent and economic growth somehow should never be more than 2.5 or 3 percent. Where on Earth did they get these notions? What schools out there could possibly teach this kind of nonsense?

There is not much we can do about what the Fed did yesterday, but shortly I intend to reintroduce the Federal Reserve reform legislation that I have sponsored previously. I would introduce this even if rates were going down, so it is not just that they are going up that causes me to come and describe to my colleagues what I think we should do. But I am very concerned that rates are going up at a time when they should not be going up, when there is no credible evidence of inflation—none. Inflation is down 4 straight years. Last year, 2.7 percent.

Mr. Greenspan, with whom I disagree substantially, says, ''We think it overstates inflation by up to 1.5 percent.'' If that is the case—I do not agree with that. But using his own numbers and his own logic, maybe inflation is only 1.2 percent. If that is really the case, then what on Earth are they doing raising interest rates seven times? How can one conclude that inflation is somehow on the cusp of being out of control if it is 1.2 percent? Again, I do not know just what kind of air they are breathing that can cause this kind of internal chaos and this kind of unusual thinking.

We cannot do much about yesterday, but we sure can do something about tomorrow in terms of how decisions are made about monetary policy. Should decisions be made by a bunch of politicians? No, I do not think so. There are not enough cigars in the world to pass around to give politicians the opportunity to close the door and make their own decisions about money. I do not agree with that. That is not my suggestion. But should monetary policy be conducted outside of the view of the American public in some closed room by a bunch of central bankers who serve their constituency, not ours? The answer is no. It is the wrong thing. We should change it. Congress created the Federal Reserve about 80 years ago. We should change it.

How would we change it? I recognize the minute we talk about changing anything here Wall Street has an apoplectic seizure. But most anything gives Wall Street seizures. Let us talk about what ought to be done and let Wall Street worry about its future.

What ought to be done? Well, first of all, we ought to pass a Federal Reserve reform bill that says the following: Nobody ought to vote on monetary policy in this country in any room, locked or unlocked, unless they are accountable to the American people. And the fact is those who voted in the Open Market Committee on interest rates yesterday and who are the regional Fed bank presidents are neither appointed by the President of the United States, nor are they confirmed by the Congress. They are unaccountable to anyone except their boards of directors, the majority of which are private bankers. None of them should ever cast a vote on the Federal Reserve Board Open Market Committee. No regional Fed bank president ought to have a vote on that committee. That is No. 1.

No. 2, I think there ought to be immediate disclosure. There has been, incidentally, in recent months, immediate disclosure of actions by the Fed. When they take action in secret, it ought to be disclosed immediately. I have read stories about people using voice stress analyzers on speech by the Fed Chairman after a meeting was held and they made a decision in secret but are not set to announce it until later. So somebody is using voice stress analyzers on the voice of the Chairman to figure out what has happened in the room. That is how bizarre the secrecy at the Fed has become. It has persuaded people to try to penetrate the secrecy.

So, make a decision and announce it immediately. Let the small investor know as much as the big investors think they know.

Third, I think that the Federal Reserve Board budget ought to be published in regular order and in regular form in the budget of the United States, and I think it ought to be subject to performance audits. The Federal Reserve Board ought to be like other Federal agencies and accountable.

Fourth, I believe the Federal Reserve Board ought to meet on a formal basis with the executive branch of Government, especially the Treasury Secretary, who is involved in fiscal policy. If we have monetary policy on the left hand and fiscal policy on the right hand, the two ought to talk a little bit to figure out which direction they are going.

We have had circumstances in the past where they looked like they were riding a bicycle built for two, with fiscal policy on the front end trying to chug uphill and monetary on the back end trying to keep the brakes on. And they get somewhere near the cusp of the hill, and they are talking to each other and one says, ''We are exerting a lot of pressure to get away,'' and the other says, ''We are putting the brakes on.''

What sense does that make? There ought to be some coordinated policy in this country, or at least some understanding of what one is doing relative to the other.

Those are the things that I think need to be done to make changes in the Federal Reserve Board. Very modest changes. This is not taking the Fed and flipping it upside down and shaking the daylights out of it. It is not doing that. Would I like to do that? Maybe. But am I proposing that? No, I am proposing very modest steps.

Even these steps, interestingly enough, are largely too much for most Members of Congress, because they say, ''Oh, Lord we don't want to get involved in that. We don't want to talk about the Fed. It is some mysterious priesthood of action and language down there which we don't understand. Let's not interfere with it. Those who want to talk about this basically want to put politics right in the middle of the Federal Reserve Board System.''

Nonsense. Total baloney. We ought to do this. We ought to at least give the American people some notion that monetary policy constructed in this country is of, by and for all the people, not just the constituency of the big money center banks that is represented so well and so consistently by current policies of the Federal Reserve Board.

I hope I do not come to the floor again in the months ahead to be critical of the Federal Reserve Board. My preference would be to praise the Federal Reserve Board for doing the right thing. But they are doing the wrong thing. It is time for us to say when the Federal Reserve Board is on the wrong course doing something that is going to injure this country. When the Fed feels its role is to be a human brake pedal to slow the country down and risk throwing it into a recession, it is time for some of us to stand up and say this makes no sense for our country.

I come from a State that is a heavy user of credit—agriculture. The family farmer plants in the spring and does not get a crop until fall. They need to use credit to tide them over during the year.

Do you know what sort of behavior this does to a family farmer? It is an enormous hit for a family farmer or rancher. This substantially increases their costs. Farmers in North Dakota will pay, on average, thousands of dollars more in interest payment because of the Fed's actions this past year. Did they have any opportunity to participate in these decisions? Any voice at all? No. The interest of the family farmer or rancher out there is subordinated to the interest of the money center banks. I guarantee you, the interest of the money center banks is present, front and center in that room when these decisions are made.

But I also guarantee you that there is not anybody in that room talking about my Uncle Joe, about people who produce things, about the farmers out there who are planting and hoping, about the ranchers who are working in subzero weather trying to make sure their cows are all right and then come to the bank at the end of the year and decide they have substantially increased costs. It has nothing to do with their cows, but it has to do with some folks down there behind a closed door at the Federal Reserve Board.

This ought to change. I would not be here if I thought the Federal Reserve Board was on the right track and doing the right things for our country. I feel so strongly they are not. I think the Fed is moving in a direction counterproductive to this country's interest.

That is what persuades me to talk and to, once again, want to introduce this legislation. Let me in 1 final minute read something from the Washington Post today. After yesterday's action by the Federal Reserve Board, it is not, I suppose, surprising for anyone to see a quote:

> Many Wall Street analysts, however, praise the course of Fed policy.

I tell you what, that probably is not very surprising to most Americans. Many Wall Street analysts praise the Fed policy. Of course they praise the Fed policy. Who do you think the Feds are doing this for? It is not Main Street, it is not the family farmer, not the rancher, not the working person out there.

So I guess when previous Fed Reserve folks said to Members of Congress at a hearing, ''We are serving our constituency''—that is what they said arrogantly—we know who their constituency is. But it is different than our constituency, and that is the dilemma.

I hope one of these days there is a reconciliation in this country about who monetary policy is created and fashioned for and in whose interest it now serves.

Mr. President, I yield the floor, and 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. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE CLINTON PLAN TO ASSIST MEXICO

Mr. DODD. Mr. President, on Tuesday, January 31, President Clinton announced that he could no longer wait for the Congress to act on the Mexican loan guarantee legislation that he had proposed to assist Mexico with the serious economic crisis it confronts. Instead, he has decided to act now to stem the tide of negative expectations that threatens to overwhelm Mexican exchange and financial markets. Utilizing existing executive authority, the President has indicated that the United States will make available a $20 billion swap arrangement through the Exchange Stabilization Fund.

The President, to his credit, has also enlisted the substantial involvement of the international community in this latest initiative. The International Monetary Fund will provide an unprecedented level of assistance—$17.5 billion, and the European Community through the Bank for International Settlements will make $10 billion available to this effort. Taken together, this package should be more than sufficient to deal with the adverse market psychology that had developed over the inability of Congress to act on the guarantee proposal.

I believe that the President's decision is the right one in light of the potential threat that the current instability poses, not only for Mexico, but for our economy as well. It is important to remember that Mexico has been an important player in the United States economic picture. Mexico has been our third largest trading partner. The United States has represented two-thirds of Mexico's worldwide trading activities. Up until now, Mexico has been an important and growing market for United States exports—we sold nearly $50 billion of our products there in 1994. Some 770,000 American jobs depend on our trade with Mexico. U.S. investors also have a stake in the current situation. Not just large New York bankers and Wall Street investment brokers—but thousands of other Americans through their involvement in pension and mutual funds.

Even my State of Connecticut, thousands of miles from Mexico's border, stands to reap the benefits of a vibrant Mexican economy, or alternatively suffer the pain of a collapsed one. In 1993 nearly 7,000 Connecticut workers were employed in producing products destined for sale in Mexico at a value of $365 million. My State is by no means unique on this score. California, Texas, Arizona, New Mexico all have an enormous stake in Mexico's economic health.

That Mexico has a serious problem is not in question. Its financial and currency markets have been in a frenzy over the last several weeks. The peso has lost more than 50 percent in value. Yesterday, the peso reached a historic low at 6.3 pesos to the dollar. The Mexican stock market has been rocked as well. The Zedillo government has been unable to refinance most of its debts coming due thus far this year—obligations that will reach $80 billion by year's end. Unless this crisis of confidence is reversed and markets stabilized, the Mexican economy will slide into serious recession and its financial system will all but collapse.

Clearly, the Mexican Government must take steps to help itself. And it has done so. On January 3, President Zedillo announced an emergency economic program designed to stabilize the economy—allow the peso to float, reduce Government expenditures, accelerate Mexico's privatization program for state enterprises, conclude a wage-price accord with business and labor in order to contain inflation, and open the Mexican financial sector to foreign investment. Despite these efforts, the crisis of confidence continued.

I for one am firmly convinced that President Clinton has made the right decision in proposing that the United States intervene in order to restore confidence in Mexico's economy. It makes good economic sense. It makes good foreign policy sense. The American people stand everything to gain from a stable and prosperous Mexico. And, much to lose from one that is in disorder and poor.

If we sit back and do nothing, millions of Mexicans will lose their jobs. This will produce social and political tensions. It will also put additional pressure on our borders as Mexicans seek alternative sources of employment in the United States, further heightening tensions over immigration between the United States and Mexico.

To those who point to NAFTA as an explanation for the current economic crisis facing Mexico, I would say that they could not be more wrong. If anything, it is because of NAFTA that there is a clear framework for resolving the current economic problems confronting Mexico. Many Americans currently doing business in Mexico have indicated that they intend to stay the course, to remain engaged, to ride

out the current fiscal storm. Why? Because they believe that the Mexican economy is fundamentally strong. A principle reason they hold that view is because NAFTA has ensured the continuity of fundamental market reforms that has made it possible for Americans to sell products and do business there. Were it not for NAFTA, the crisis in Mexico would be far deeper and far more protracted.

I commend Majority Leader BOB DOLE and Speaker NEWT GINGRICH for their willingness to act in a bipartisan fashion to assist the President in moving the original guarantee proposal through the Congress. Regrettably they were unable to garner the necessary bipartisan support required to pass the legislation in a timely fashion. I think that the President was right in the judgment that the Mexican economy could not withstand the battering of another several weeks of uncertainty over whether the United States assistance would be forthcoming.

Mr. President, we engage in vigorous debate in this body day in and day out. Debate is clearly an integral part of the legislative process. However, from time to time, an issue comes before the Congress that is so important and so sensitive that it mandates that partisan politics be set aside and that we come together in support of the President. I believe that the situation in Mexico is just such an issue.

Mexico and the United States have had a long and enduring friendship. We share a 2,000-mile common border. We share a common commitment to democracy, liberty, and human freedom. We are partners in a global economy that has inextricably linked our fates. For all of these reasons, United States' interests are served by helping Mexico at its moment of need. I call upon all my colleagues to get behind the President in support of this effort—it is in the interest of all Americans that this initiative succeed.

NATIONAL SERVICE

Mr. SARBANES. Mr. President, I was proud to cast my vote for the National and Community Service Trust Act of 1993 when the conference report came before the Senate for final approval last September. This was important legislation intended to marshal the Nation's best resources—its citizens—to confront the many pressing problems facing communities across the country. The National Service Act, signed into law on September 21, 1993, has helped renew the ethic of civic responsibility and the spirit of community service throughout the United States while also providing critical assistance in meeting vital human, educational, environmental, and public safety needs.

In light of this, I am troubled by recent statements by the House Republican leadership expressing opposition to national service, describing it as gimmickry and coerced voluntarism. I would urge those who put forward these views to look carefully at the new national service program's centerpiece, AmeriCorps, a national network of local youth service corps. Unlike previous volunteer-based programs, AmeriCorps is not one large Federal program, but a network of locally developed and locally managed service corps which will give thousands of young people the kind of opportunity earlier generations had to serve their country and improve their own lives as well as those of their neighbors.

I am proud that my own State of Maryland has been a leader in the area of national service. The tremendous number of volunteer organizations across the State deserve credit for the enormous difference that volunteers have made and continue to make in Maryland each and every day. Maryland has very deservedly been the recipient of a number of first round AmeriCorps grants. I was privileged to be with the President during the official kickoff of the AmeriCorps Program at Aberdeen Proving Ground last September, the first campus selected under the National Service Act as a cite for the National Civilian Community Corps [NCCC]. Using a converted barracks, the NCCC campus at Aberdeen houses 250 young adults who work in 10-member teams on projects throughout Maryland, the Northeast, and the Mid-Atlantic. The program emphasizes conservation of natural resources, public safety, and the educational and human needs of children and older Americans.

I was also privileged to meet earlier with members of Community Year in Montgomery County, Civic Works in Baltimore, and the Maryland Conservation Corps to discuss their critical efforts to rehabilitate housing for low-income families. More recently, my wife was able to visit an AmeriCorps site at Frostburg State University in western Maryland. The local program, named Appalachian Service Through Action and Resources or A STAR, provides many types of assistance in areas involving social service and the environment. Participants perform duties as varied as coordinating environmental projects at Deep Creek Lake, developing Victory Gardens in Garrett County, working with local Head Start programs in recruiting volunteers, providing independent living assistance enlarging area food pantries, and establishing youth literacy programs.

Mr. President, it is my view that national service, and those who participate in it represent the best of our Nation. AmeriCorps and other programs under the National Service Act of 1993 carry forward an idea rooted in the best traditions and values of America—the tradition of serving others, the value of taking personal responsibility for ourselves and our communities, and the belief that to whom much is given, much is expected. Through programs like AmeriCorps we are providing our Naiton's young people with both an opportunity and an obligation. It asks them to put something back into the community while also providing them an opportunity to develop skills which will serve them well throughout their lives.

As I have indicated through examples in my own State, the national service program is working. Nationwide, there are other examples—the executive director of the National Association of Police Organizations has called AmeriCorps a huge boost in the arm for law enforcement; officials of the Federal Emergency Management Agency say that participants in AmeriCorps have helped thousands of disaster victims pick up the pieces of their lives; Habitat for Humanity says they could not do their job without such individuals.

In my view, Mr. President, those who have answered the call to service by participating in AmeriCorps and other national service opportunities are taking part in the oldest and best of America's traditions—a spirit of service. I would ask those who have criticized legislation which has furthered national service to look again at the important efforts underway which serve to produce stronger families and stronger communities, and to join me in commending those who are taking part in this important renewal of service to our Nation.

THE RETIREMENT OF RICHARD COLLINS

Mr. INOUYE. Mr. President, on January 31, Richard Collins of the staff of the Senate Appropriations Committee retired. Mr. Collins has served the committee and the Senate for the past 20 years. It has been my pleasure to have worked closely with Richard throughout that period. Richard served as the clerk and staff director of the two subcommittees I had the fortune to chair in the 1980's and 1990's, Foreign Operations and Defense.

In each of these positions Richard has served me and the Senate professionally and faithfully. I will miss his knowledge and counsel in the days and years ahead. I can take some solace knowing that Richard plans to remain in the Washington, DC, area. And, I know we shall call upon him often to provide the type of guidance that we have counted upon for the past 20 years.

Last Thursday night, the friends of Richard Collins gathered to wish him a farewell and happy retirement. On that occasion, Richard spoke eloquently about his career in the Senate, his many and varied experiences, and what it meant to him to be a staff member for this body. He spoke of his affection and reverence for the institution, the relationship between Members and their staff and the importance of staff in the operation of the Senate. I know that many of my colleagues were in attendance that evening and had the good fortune to hear this gentleman's farewell remarks, but I believe the

words and thoughts should be shared with all my colleagues. Therefore, today I have risen to place Mr. Collins' address in the RECORD.

Mr. President, there are some 5,000 congressional staff members serving the House and Senate. They are bright, hard working, and virtuous. Richard Collins has been one of the finest for many years. The Senate will miss him.

I ask unanimous consent that the text of Richard Collins' address be included in the RECORD.

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

FAREWELL MY FRIENDS

My friends, I am pleased and honored that all of you have come here to share in this celebration, this farewell. As you may well understand, in the twilight of my career in the Senate, I am tempted to delay the end of the day, to speak at length and to try to reach each of you with a shared memory, a common experience, a touch of friendship.

I will not do that now; it does not seem necessary. The memories will linger, and try to as we might, our experiences can never be relived as fully as we would wish (but we have had them); and, in any event, you know, already, that you are my friends. I will take but a brief moment, then, to burnish those memories and to express my deep appreciation to you and to those with whom and for whom I have worked.

First, I will say that I yield to no one in my love and respect for the institution that I have tried to serve for the past two decades. In my time here I have learned that the Senate—the Congress—is, indeed, a reflection of the American people. Now and then there may be a whiff of scandal, of human frailty, but I think of greater importance and of more lasting significance is the courage and heroism of those who rise every day and strive to do what is right for America and her people. I, and you, each of you, have been privileged to be a part of that. For this, we should be eternally grateful.

This is no easy task, this coping with daily life. Chekhov said, ''Any idiot can face a crisis—it's this day-to-day living that wears you out.'' He may have had something there.

It's true, as I have contemplated my retirement and the onset of a new career, I have asked myself, do you have the energy and resolve to start again?

Ubetcha!

I find myself remembering the advice of the American philosopher and baseball player, Leroy Robert Paige. Among the sayings of the great ''Satchel'' Paige perhaps the best known is, ''Don't look back. Something might be gaining on you.'' My favorite, however, is his dismissal of those who put too much weight of the chronology of age. He said, ''How old would you be, if your didn't know how old that you was?''

I am not worn out nor weary; I know that I will age, but I am not going to grow old. I look forward to new challenges and I will seek new ways to serve. I intend to set sail again.

I am deeply, profoundly, honored to have known and worked with Senator Inouye, Senator Hatfield, Senator Stevens, and Senator Byrd—all my chairmen, all my leaders, all my mentors, and friends.

There are many others, some of whom are still in the Senate and some of whom are gone. I remember them all. John Stennis, Lawton Chiles, Jake Garn, Tom Eagleton, Malcolm Wallop—so many more who are no longer in the Senate. Barbara Mikulski, Chris Dodd, Joe Lieberman, Don Nickles, Pete Dominici, Judge Heflin, and many others who still serve.

I have so many special memories—few have listened to the hopes of Peace Corps volunteers in the distant reaches of Africa as they spoke of bringing water for the first time to humble villages; few have met and wept for the children in refugee camps on the Cambodian border; few have stood with Senators Inouye and Stevens and Nunn and Warner in the desert of Saudi Arabia and listened to the proud declarations of our soldiers who accepted and fulfilled America's responsibility in the world—few have been shot down in a helicopter over Central America with Bennett Johnston and lived to hear him tell the tale—both harrowing experiences, I assure you.

I have done these things. I have seen much. I have spent the night in palaces and in truck stops. I have slept under the sea and on the desert. I have been with kings and vagabonds.

In my career, I traveled widely and learned a great deal—how precious our democracy is, how much we are linked with the world, how freedom and justice and human rights are indivisible. John Donne was right when he wrote, ''No man is an island * * * any man's death diminishes me, because I am involved in mankind.'' I believe my experiences, my travel to foreign lands and in strange cultures, seasoned my academic learning and enabled me to bring prudent judgment to my work in the Senate. I believe the same is true for Senators. Foreign travel, exposure to other cultures and other governments should not be ridiculed; it ought to be required of those who would seek to make America's way in the world.

Over the years, I learned from the humility and courage of others. I remember the resolve of Robert Byrd when he quoted, not Shakespeare, not a history of the English people, but William Ernest Henley's poem ''Invictus.''

In the fell clutch of circumstance
I have not winced nor cried aloud.
Under the bludgeoning of chance
My head is bloody, but unbowed.

Chairman Byrd read that poem on the floor the day after the Democrats lost control of the Senate in 1980. He inspired us to carry on.

I remember the grace and charity of Chairman Hatfield, when he called all of the appropriations staff together after that election and thanked us—winners and losers—for the work we had done and would still do. We felt like soldiers at Gettysburg listening to Lincoln as he praised the sacrifices of men on both sides of that terrible battle.

Throughout these 20 years and more, throughout it all, my liege, foremost among those I have sought to serve, has been Dan Inouye of Hawaii. He is a man of great courage and integrity; a man who has suffered much, achieved much, and has heard both the thunder of applause and the whisper of unfair and unjust accusation—and he is a man who has always risen to renew his service to his country, to the Senate, and to the people of Hawaii.

Some of you know of my recent match with prostate cancer—it's OK now, all is well. But, let me say that the example of Dan Inouye, this man of strength and courage was the compass by which I guided my behavior as I went through that difficult passage. No honor has ever meant as much to me as hearing him call me friend.

Well now, Senator Inouye once told me about the zori mochi. He said, in ancient Japan, when the Emperor went out for an evening, among his retinue was one man who sounded a gong to alert others that the Emperor was coming. Another carried a latern to light the way. The lowliest of all was the zori mochi whose responsibility—when the Emperior removed his sandals to enter a household—was to clutch them to his breast to keep them warm for the Emperor's return. His sole object in life was the comfort of the Emperor. The story was not lost on me.

Another man, from whom I also learned a great deal, expressed this concept a little more directly. Bill Jordan once told me, ''Collins I brought you here to hold the ladder steady while I climb to success; if I ever catch you with your foot on the bottom rung * * *'' Well, I don't think he meant it that strongly, but as someone once remarked, the difference between Bill and Richard is that sometimes when he's kidding, Richard's kidding.

Many, many others have taught me along the way:

Senator Stevens: ''There is no education in the second kick of a mule.''

Senator Chiles: (Explaining why, during a late night session, he supported a favored colleague on what I regarded as a dumb amendment) ''Richard, sometimes you have to bet on the jockeys and not the horses.''

And then there is another wise man, who shall remain anonymous, who once told me: ''It is easier to get forgiveness, than it is to get permission.'' (Libby and Julia, you can forget that.)

I carried these expressions and others with me throughout my Senate career as though they were amulets in a medicine bag to be pulled out as needed and rubbed for luck or to ward off evil. I've used them with many of you, sometimes—often—not giving credit to those who originated them.

Now, I have spoken about the legendary zori mochi and about service to Senators and the Senate and believe me I do trust in and have followed that ethic. My colleagues and I adhere to the ethic that service to Senators and to the Senate is our purpose in being here. We are proud to be on the staff of the United States Senate.

Pat Leahy is fond of saying that Senators are merely a constitutional impediment to the full authority of staff. I know he's kidding. I am certain he would agree that staff are important. I think they are essential to the operation of the Senate.

It happens that some people attribute all success, all good works to Senators alone. I do not fully agree. Perhaps the best way to explain my view is to recall a story my grandfather—a swamp Yankee farmer from Connecticut—once told me. His name was Everett Thompson. One day he was out in one of his fields, tilling the soil. The rock walls which surrounded the land which had been cleared of trees and stone gave testimony to the hard work he had put into the farm. On this day, a circuit preacher came riding up, saw my grandfather and said, ''Why Mister Thompson, this is a wonderful farm which the Lord and you have made.'' My grandfather took out his large red farmer's handkerchief, wiped his brow, and said, ''Maybe so, but you should have seen it when the Lord had it by himself.''

I do think staff is important. I think the sacrifices which we ask of the young who come to work here places a great responsibility on us, Senators and senior staff alike, to ensure that their dedication to the principles of democracy and representative government is nourished and strengthened. There will be partisan battles, to be sure. But we must also remind them, by our example and by our counsel, of the greatness of this institution.

That greatness, I fear, is sometimes lost in the thickets of procedure. Reconciliation has in recent years come to denote that onerous process by which the faulty spending estimates of the budget committees are matched to the faulty revenue estimates of the CBO.

To me, another kind of reconciliation has always been the wonder of this place. How to effect peaceful social change? How to reconcile the views of a Paul Wellstone with those of a John McCain, giving each a fair hearing and then moving to decide what is best for democracy, best for America. That is the Senate I revere.

It is of surpassing importance that the Senate recruit, reward, and recognize its staff. We must have the best; we must pay them competitive wages; we must acknowledge their contribution to the legislative process.

All of this talk about limited terms—if they are enacted, power will flow to the staff as the source of memory and knowledge; if staff is cut too far; special interest groups will become the source of information and power. We can and should reduce staff; but we must be careful; they have become a key part of the process.

I am not too worried about all of this. Staff has been a part of Government for thousands of years. I know, because just the other day I read in the Bible, ''And Joseph leaned on his staff, and he died.''

My friends, I have gone on too long. I could have spared you all of this by reading a few lines of poetry. I have found poetry—the distillation of human emotion and experience—to be a great source of comfort, insight, and inspiration over the years. The poem which best sums up who I am—at this stage in my life—is Tennyson's ''Ulysses.'' I will leave you with a few fragments from this great work.

Much have I seen and known; cities of men
And manners, climates, councils, governments * * *
I am a part of all that I have met;
Yet all experience is an arch wherethrough
Gleems that untravelled world, whose margin fades
For ever and for ever when I move.
How dull it is to pause, to make an end,
To rust unburnished, not to shine in use!
Some work of noble note, may yet be done
Tis not too late to seek a newer world
Though much is taken, much abides; and though
We are not now that strength which in old days
Moved earth and heaven; that which we are, we are;
One equal temper of heroic hearts,
Made weak by time and fate, but strong in will
To strive, to seek, to find, and not to yield.

Thank you my friends. Thank you for your friendship, your counsel, your encouragement. Thank you for your work, which made mine worthy.

THE RETIREMENT OF PHILIP A. HOLMAN, DIRECTOR OF THE DIVISION OF POLICY AND ANALYSIS IN THE OFFICE OF REFUGEE RESETTLEMENT

Mr. SIMPSON. Mr. President, I rise today to recognize a most distinguished public servant who is retiring this month after nearly 33 years of Federal service. Phil Holman, the Director of the Division of Policy and Analysis in the Office of Refugee Resettlement is a man that I and my fine staff on the Immigration Subcommittee have worked with for many years.

Phil Holman joined the Cuban Refugees Program in 1962, shortly after it was established by President Kennedy. He spent virtually his entire Federal career in the refugee resettlement program: from the early 1960's Cuban refugee flow beginnings to the 1975 Indochinese Refugee Assistance Program to the current domestic program established under the Refugee Act of 1980. Phil Holman's career has certainly come full circle as we struggle today with the current Cuban migration crisis.

Millions of refugees admitted to the United States in the past 33 years have had their new lives touched in some way by Phil Holman's work. His decades of service are deeply appreciated, and I would urge my colleagues to join me in expressing our gratitude for a fine job well done.

FATHER WILLIAM CUNNINGHAM AND FOCUS: HOPE

Mr. ABRAHAM. Mr. President, recently the Committee on Labor and Human Resources, on which I serve, held 3 days of hearings on reforming the Federal Government's system of job training programs.

Over the course of the hearings, the committee heard testimony from a wide array of interested parties: Clients of training programs; experts from academia and think tanks; businessmen, organized labor, and the General Accounting Office. Wisconsin Gov. Tommy Thompson appeared and testified about the laboratory the various States provide, where some of the most innovative reform ideas are already at work. In addition, Secretary of Labor Robert Reich and OMB Director Alice Rivlin presented the administration's perspective on what shape reform of the system should take.

However, this Senator thought the most interesting testimony came from the last panel to appear on the hearing's final day. Chairman KASSEBAUM wished to supplement the testimony of the usual array of witnesses with perhaps less conventional viewpoints. She selected individuals from around the country who have personally been involved in starting and administering innovative, community-based training and education programs. One of the individuals she invited to participate was Father Bill Cunningham, the executive director of the Focus: Hope Program in Detroit, MI.

Focus: Hope and Father Cunningham are certainly not strangers to the Labor Committee. Just last September, Father Cunningham appeared before the Labor Committee to testify about the Focus: Hope Program and its work in educating and training people. It is a testament to his dedication and success that Father Cunningham would be invited to testify by both Democrats and Republicans when each had control of the Labor Committee.

Mr. President, Focus: Hope is often described as unorthodox in its methodology. It is certainly unorthodox in one respect: Unlike the vast majority of Federal job training programs, Focus: Hope actually works. It produces real and lasting results; of course, that might seem unorthodox in this town, which sometimes appears immune to outrage over wasted tax dollars and obsolete or ineffectual social programs.

Let me offer a glimpse of the mindset which makes ''Focus: Hope so unique and—I believe—so successful. An article appearing in the March 1994 issue of ''Ward's Auto World'' noted that father Cunningham saw Focus: Hope's mission this way:

> Focus: Hope remains at its core a civil rights organization, but [father Cunningham] cites [their] machinist training effort as simply a new approach. Father Cunningham says of 200 machine shops that hired graduates from the [Focus: Hope] machinists institute, all except two were hiring their first African-American or woman. We could have been suing them, he shrugs.

Mr. President, while some groups are obsessed with talking about expanding opportunities, Father Cunningham's approach is a breath of fresh air. He believes the best method for truly empowering people is to educate them, teach them a marketable skill, develop in them responsibility, motivation, and maturity—not simply to file a lawsuit on their behalf.

For the benefit of any of my colleagues who are not familiar with father Cunningham's work, let me offer a few quotes from his testimony:

> I would emphasize advanced job skills representing new technologies, future technologies. In that vein, I would require that defense and commerce play a larger role in establishing national skills priorities * * * We must understand and balance the difference between providing jobs for the people—and everybody's hearts ought to be in that—and keep attention on providing capable and skilled persons for job demands. That is an entirely different picture.
>
> The industry was changing so rapidly that the machinist of 1981 was completely inadequate for the machine tools of 1988, the computer and numerically controlled machines. * * * In 1993, the state of the art is already catapulting so rapidly in technology that—well, I will just give you one figure. A lathe in 1981 with 3,000 RPM is replaced by Ingersol, by a machining center, with 60,000 RPM.
>
> The universities are still dealing with the engineering code of 1970. So what we are doing is very expensively putting all these kids through college, getting them engineering degrees, and then when they go to work for Ford Motor Co., they have to spend another 6 years training them.

Finally, let me highlight one observation that was agreed to by everyone on Father Cunningham's panel. Chairman KASSEBAUM inquired about the efficacy of requiring people to obtain employment first before receiving a voucher for further job training. It was noted that often the most effective training and education programs are those in which people both work and go to school either for education or to learn a particular skill. On that point, Father Cunningham offered his insight based on his work at Focus: Hope:

> I am in total agreement with my colleagues up here. The masters program we

have in engineering at Focus: Hope requires a 40-hour workweek, and that is not work-study. It is not work-study * * *. The work they do and the skills they are developing dictate the knowledge they need to draw down. And if the university cannot provide that knowledge, the university is irrelevant. So the knowledge drawdown assimilates knowledge at, as I said earlier, geometric proportions. So the young people there are learning four and five and six times faster than the normal engineering candidate at a major university, simply because they are seeing the relevance of what they are learning in terms of the demands of the workplace.

Mr. President, judging by the testimony provided to the committee during the 3 days of the hearing, Focus: Hope is precisely the type of program we should be attempting to replicate around the country. However, the lesson is not that the Government should dictate that all recipients of Federal dollars exactly mirror Focus: Hope in concept and design, but that the Government seek out programs with a proven track record of success and a proven base of support in their community or region.

This Senator believes the best method for accomplishing this is to get the money into the hands of State and local officials who have a better idea as to which programs are working and where our limited resources are best utilized, that certainly has been the experience in my State of Michigan, where our citizens have had tremendous success under the leadership of Gov. John Engler, in forging a statewide partnership to enact real reform in such areas as job training and welfare.

Once again, let me congratulate Father Cunningham on his appearance before the Senate's Labor and Human Resources Committee and commend him for his fine work at Focus: Hope. It is individuals like Father Cunningham and organizations like Focus: Hope which have made this country great and stand to make a positive difference in our future. We would be wise to offer them our assistance and follow their example.

Mr. President, I yield the floor.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that ''Reagan ran up the Federal debt'' or that ''Bush ran it up,'' bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. We'd better get busy correcting this because Congress has failed miserably to do it for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,810,859,576,867.71 as of the close of business Wednesday, February 1. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $18,262.11.

THE CLINTON BAILOUT OF MEXICO

Mr. HELMS. Mr. President, our offices in Washington and North Carolina have been inundated with calls protesting President Clinton's decision to bypass Congress and, more importantly, Mr. Clinton's willingness to ignore the emphatic will of the American people. In any event, that is what Mr. Clinton has done with his unilateral $20 billion bailout of Mexico.

I have opposed this scheme from the very beginning because it will do nothing to remedy Mexico's internal problem and it is unfair to American taxpayers. Last week, I presided over in-depth hearings by the Foreign Relations Committee. Witness after witness warned the President not to violate the will of the American people in this matter.

Mr. President, if this were as important as the President would have us believe, then Congress should debate the bailout and vote on it, up or down, for or against. Before the taxpayers' money is put at risk, however, the people being forced to foot the bill should have a say. The $20 billion in question is an enormous amount of money. It is more than the annual budget of the State of North Carolina; it is larger than the annual budgets of 16 of the 18 States represented on the Foreign Relations Committee.

I am not convinced that refusal to bailout Mexico would be the disaster that the administration has described. Many topflight economists say the same. The Mexican people are already suffering, a condition that will improve only with solid political and economic reform, not as the result of a bailout.

Mr. President, on several occasions between 1980 and 1994, Mexico used dollars drawn from a special line of credit at the United States Treasury. The United States has also aided Mexico with bridge loans, bank credits, currency swaps, and guarantees, all to shore up confidence in Mexico. Assistance from Uncle Sam usually has come right around election time in Mexico. Credit lines from the United States and other countries, amounting to as much as $12 billion, were negotiated twice in the past 15 months alone.

With the exception of last week's hearings narrowly focused on the peso crisis, the Senate has not held hearings on the situation in Mexico since 1986. Since the President is obviously willing to risk saddling the taxpayers with $20 billion of debt, I believe Congress has a fundamental obligation to examine carefully the political and economic situation in Mexico and the administration's policy toward Mexico.

Mr. President, the Mexican Government has a credibility gap, and for obvious reasons. Just one example: There are some 2,000 United States claimants protesting Mexico's refusal to pay about $19 billion owed under a little-known 1941 treaty—the Treaty on Final Settlement of Certain Claims—which provided for settlement of longstanding disputed property claims. The United States fully met its obligations by 1948, but Mexico broke its promise. The Mexicans signed the treaty on the dotted line knowing full well that it was never intended that Mexico would compensate these Americans. To this day, not a dime nor a peso has ever been paid to an American claimant.

Mexico doesn't hesitate to break its promises to the United States, much less to violate United States policies. For example: Mexico is giving aid and comfort to Fidel Castro by investing in Cuba's economy, notwithstanding the United States trade embargo. According to Cuba Report, published by the Miami Herald, the Mexicans are financing Cuba's telephone company to the tune of $1.5 billion, And, by the way, the Cuban phone company is a confiscated United States business. Also, a Mexican-Cuba joint venture will invest $100 million in a Cuban oil refinery. The dominant member of this venture will be Pemex, the Mexican's Government-owned oil company.

The Mexican Foreign Minister was quoted by the January 27 Financial Times as saying that ''the typical U.S. politician is not necessarily someone who is very conscious of international subjects. Even supposing they know where Mexico is * * * they lack information about what happens in Mexico.''

Mr. President, this is the same fellow who came to Washington with an outstretched hand pleading for cash.

Mexico's international debt stands at $180 billion. According to the United States Treasury Department's own estimate, the Mexican debt coming due in 1995 alone—both public and private sector debt—is more than $80 billion. What Mexico sorely needs is to get at the root causes of its problems so that it will cease to require emergency intervention by the United States taxpayers.

Mr. President, Mexican President Zedillo has a tough road to travel: He must solve the short term economic crisis; provide for a long-term economic stability; end a civil uprising; address corruption; stop drug trafficking, and initiate political reforms. Properly addressing these issues is what's needed to shore-up investor confidence.

Mexico would be better off letting the markets set the value of the peso and Mexican stocks and bonds. The U.S. Government has no business bailing-out private or public investors who lose money on highly speculative investments.

In testimony last week before the Foreign Relations Committee, experts

recommended that Mexico eliminate its wage and price controls; reform its banking industry; increase the pace of privatization and further open their oil company and other State-controlled entities to foreign investment, and then tighten its fiscal and monetary policies.

A bailout of Mexico is bad policy. It may provide some illusory short term relief, but it fails to address the root causes of Mexico's woes. We've been told that the imposition of any conditions, such as: First, drug trafficking controls; second, extradition of Mexican citizens involved in United States crimes, and third, resolution of all outstanding claims against Mexico by United States citizens—these conditions are too politically sensitive for the Mexicans. It might hurt somebody's feelings. But, I for one, wonder why the Mexicans seek United States financial aid with one hand, while they sustain Fidel Castro's brutal dictatorship with the other.

It boils down to this, Mr. President: When an American taxpayer gets a loan from his local bank to buy a house, the property is security for the loan, as Uncle Sam doesn't cosign the note. Yet, that is exactly what Mr. Clinton is proposing, namely that the United States sign the $20 billion note.

In my judgment, the United States and the Mexican Governments are perpetuating an unhealthy situation in which Mexico has grown dependent on us to fix its financial problems. It's bad for Mexico and it's unfair to the American taxpayers. This is the seventh time since 1982 that the United States taxpayers have bailed-out Mexicans and have rewarded wealthy bankers who have made bad loans.

The American taxpayers should not be placed at risk in bailing-out Wall Street bankers and speculators, particularly since the Federal Government has already run up a 4 trillion, 800 billion dollar debt which our grandchildren and their grandchildren will have to pay.

Mr. President, on January 18, I sent the administration 35 questions about the proposed bailout. I ask unanimous consent that the responses, which I received 8 days later, be printed in the RECORD at the conclusion of my remarks.

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

QUESTIONS AND ANSWERS

Question 1. Is the Secretary of the Treasury prepared to recommend to the President that he explain, in writing, to the U.S. Congress the urgency and necessity of authorizing $40 billion in loan guarantees to Mexico? If so, has such a recommendation been made or when can it be expected?

Answer. The President addressed the urgency and necessity of obtaining legislation authorizing a loan guarantee facility in his January 18 remarks at the Treasury Department and in the State of the Union. And he wrote to the bipartisan leadership on January 19.

Question 2. What specific conditions will the United States require of the Government of Mexico in order to ensure that we are repaid?

Answer. Mexico will pay substantial fees upfront to more than cover scoring costs.

Mexico will provide backing in the form of proceeds from oil exports in the event it can't meet its obligations.

Mexico will be required to agree to strong economic conditions and comply with them during the period that the guarantees are made available.

These conditions will focus on the monetary and fiscal policies necessary to restore growth and thereby generate resources to repay its obligations.

We will prepare and transmit to Congress reports at least quarterly on Mexico's compliance with the conditions as set out in the legislation and elaborated in consultations with Mexican officials.

Question 3. What specific economic structural adjustments will the United States require of Mexico?

Answer. Mexico has implemented a number of structural changes in its economy over the past decade, notably the liberalization of trade restrictions, the privatization of state-owned enterprises, the establishment of an independent central bank, and the restoration of some balance to public finances. Mexico has announced its intention to undertake further structural changes, including further privatization steps. Progress in making these reforms will be taken into account in extending the guarantees.

Question 4. Will each and every condition be made public? If not, will Members of Congress be able to obtain information on those conditions.

Answer. The legislation will itself stipulate many conditions. Conditions established in the agreement negotiated between the U.S. government and Mexico prior to the issue of guarantees will be provided to Congress if appropriate on a confidential basis.

We also intend to prepare and transmit to Congress reports at least quarterly on Mexico's compliance with the conditions as set out in the legislation and elaborated in consultations with Mexican officials.

Question 5. How was the $40 billion figure arrived at as the appropriate amount to deal with the current situation?

Answer. A substantial amount of Mexican debt will mature over the next 12 to 18 months. This includes public and private external debt as well as the dollar-indexed Tesobonos. We believe that $40 billion provides a reasonable safety net to be used to refinance maturing debt that is not being rolled over. The amount of $40 billion will convince the market that Mexico will have more than adequate resources to meet what we view as a short-term liquidity problem.

Question 6. Will the $40 billion in guarantees cover both principal and interest?

Answer. Under the guarantee arrangement with Mexico, the coverage will be up to 100% of principal and interest.

There are a number of U.S. Government guarantee programs which provide full coverage of principal and interest. These include the Israeli guarantees administered by USAID.

We will be charging the Mexicans substantial fees for this full guarantee coverage. These fees will move than cover the budget costs of the program, effectively reduce the exposure of the United States Government, and encourage the Mexicans to limit the use and coverage of the guarantees.

Question 7. What does the Treasury calculate to be the total risk to the United States should the Government of Mexico default?

Answer. We think the risks to U.S. taxpayers are small even if Mexico defaults.

Mexico will pay substantial fees upfront to more than cover scoring costs.

Mexico will provide backing in the form of proceeds from oil exports in the event it can't meet its obligations.

Mexico will be required to agree to substantial economic conditions and comply with them during the period that the guarantees are made available.

These conditions will be designed to ensure that these proceeds of the guarantee are used prudently.

Question 8. Will an authorization of $40 billion do the job of stabilizing the situation? Is this the last time the Administration will need to come back to Congress for loan guarantees for Mexico?

Answer. We believe $40 billion will be sufficient to restore stability, and in fact, we think it is highly unlikely that Mexico would use the entire $40 billion of guarantee authority.

Mexico has a liquidity problem that can be overcome in a relatively short period of time. We anticipate that Mexico will be able to return to private capital markets and borrow in its own name within a relatively short period of time.

With these guarantees and an appropriate economic program, we do not anticipate a need to return to Congress to request additional guarantee authority.

Question 9. In Administration briefings to Congress on the peso crisis, U.S. officials have stated that economic policies and decisions made by former Mexican President Salinas are directly responsible for the current crisis. Given this, does the Administration continue to support President Salinas to head the World Trade Organization?

Answer. The United States supports the candidacy of former President Salinas to head the World Trade Organization. As President of Mexico, Salinas led his country through a successful process of economic reform and trade liberalization. He also represents a bridge between the developing world and the industrialized nations.

The issue of whether the Mexican government should have devalued or not is a highly technical issue where economists disagree. The decision not to devalue does not disqualify former President Salinas. We continue to believe he is the best candidate for the job and is well-qualified to take on the challenges facing the global trading system.

Question 10. Please describe in detail all fees that will be incurred by the Government of Mexico in order to secure the guarantee. What will be the amount charged for each fee category? How is the fee amount determined?

Answer. The fee will have three components: commitment fees, basic fees, and supplemental fees.

The commitment fee will be set as a % of total guaranteed authority.

The basic fee will be set to correspond to the U.S. budget scoring cost as determined by OMB and CBO under the current scoring system. It will be paid when each guarantee is issued.

The supplemental fee will be set by the Secretary of the Treasury to ensure that Mexico return to private capital markets as soon as possible.

These fees will more than offset any estimated budget costs to the United States Government.

Question 11. Will the Government of Mexico be able to borrow against the loan guarantees in order to pay the fees mandated in any stabilization program?

Answer. Yes.

Question 12. What amount of collateral does the Treasury Department believe is sufficient to protect against the risk should the loan guarantees be used by the Government of Mexico? How was the amount of the collateral determined?

Answer. Treasury and Mexico will establish the oil proceeds facility to provide protection for the total potential U.S. exposure under the guarantee program—dollar for dollar.

Question 16. What steps has President Zedillo taken to alleviate the crisis since the situation began in December?

Answer. The initial action taken by President Zedillo was to renegotiate the PACTO, a tripartite (government, business, and labor) agreement that sets economic objectives, including wage increases, inflation and economic growth.

The Mexican Government also announced plans to reduce the growth of credit issued by the development banks and to accelerate the privatization program.

The Mexican Government then requested the U.S. and Canada to activate the swaps agreed to under the North American Framework Agreement of April 26, 1995.

As the market reaction indicated a lack of confidence in the Mexican economic program this program was strengthened. On January 2, President Zedillo announced additional measures aimed at restoring better economic balance. These include plans to reduce government budget expenditures, to privatize still more government-owned facilities. And to conduct a more stringent monetary policy.

At this time, the establishment of a $18 billion facility was announced. This included $9 billion from the United States split equally between the Treasury and the Federal Reserve, and $1.5 billion from the Bank of Canada, $5 billion from a consortium of central banks organized under the auspices of the Bank for International Settlements, and $3 billion from a group of private banks.

The Mexican Government also announced its intention to negotiate a Stand-by agreement with the International Monetary Fund. Negotiations are ongoing regarding the stabilization measures that Mexico will put in place under this agreement.

Question 17. What steps did the United States Government take in December to stabilize the peso?

Answer. The United States activated its $6 billion swap facility and then temporarily increased it to $9 billion. We did not intervene in the foreign exchange market, nor were there any drawings on our swap facility during December.

In early January, the Mexican government announced that it had made initial drawings from the Treasury and Federal Reserve swap facilities.

Question 18. What is the Treasury Department's position as to requiring, as part of a stabilization package, a commitment by the Government of Mexico to create a currency board or some other mechanism that will guarantee the independence of the monetary authority?

Answer. The most important thing for Mexico to do in the short-term is to put in place tight, effective controls on credit and money. There are lots of ways to do this, and we are looking at the alternatives with the Mexican authorities and the IMF.

Currency boards have worked well in certain circumstances, such as in Hong Kong. But they are controversial, and they cannot substitute for the need to put in place a credible and effective economic program. In addition, they require a substantial cushion of reserves, which Mexico now lacks.

Question 19. What is the current amount (in dollars) of both official and commercial debt that Mexico owes the United States or U.S. institutions?

Answer. As of September 1994, reported U.S. private and public debt claims on Mexico total $44 billion. These include: claims on Mexico of U.S. based banks of $21 billion, short-term claims held by U.S. non-banks of $4 billion, U.S. holdings of Mexican bonds of $18 billion, and U.S. official agencies' credits of $1 billion. (These figures do not include U.S. holdings of stocks or U.S. direct investment, which are substantial.)

Question 20. What is the current amount (in dollars) of Mexico's international reserves?

Answer. As of January 6, the Banco de Mexico's international reserves were $5,546 million.

Question 21. What is the amount, in dollars, of Mexico's ''short-term obligations'' that are now coming due?

Answer. Mexico faces maturity obligations in 1995 totalling approximately $81 billion. This sum includes both the external debt of the public and private sector, as well as public domestic debt obligations—Tesbonos—that are linked to the peso value of the dollar.

Much of this debt will be rolled over in the normal course of business. However, Mexico has been having a particularly difficult time rolling over maturity Tesobonos. In addition, some Mexican banks have had difficulty rolling over maturing debt.

Question 22. What is the amount (in dollars) of gold that Mexico either holds or has access to?

Answer. As of end-June, 1994, the gold holdings of the Bank of Mexico were 425,000 Fine Troy Ounces. At $380 per ounce, the value would be $161.5 million.

Question 23. What is the estimate of flight capital from New Mexico over the past twelve months?

Answer. Flight capital is inherently difficult to measure. The general consensus of economic experts on Mexico is that Mexico's balance of payment from problem resulted more from the drying up of foreign portfolio investment than capital flight. According to the Federal Reserve, which uses World Bank standard methodology, capital flight may have totaled $8–$10 billion in 1994.

Question 24. What steps will the United States insist upon to end flight capital?

Answer. The only enduring way is to restore confidence of domestic and foreign investors in the economic policies and exchange rate of Mexico. The measures that Mexico takes to stabilize its economy—stringent monetary policies and attractive real interest rates, are aimed at restoring confidence.

Question 25. What specific assurances can the Treasury Department give to the Congress that no loan guarantees provided by the United States will be used to subsidize or otherwise underwrite Mexican commercial transactions that negatively impact on U.S. national interests, including Mexican debt-for-equity swaps with Cuba?

Answer. The Government of Mexico has indicated that it is prepared to make specific assurances that these loan guarantees would not be used to subsidize or otherwise underwrite the types of transactions with Cuba raised in the above question.

Question 26. As the situation presently confronting Mexico is also faced by other developing countries, is the Administration prepared to propose similar stabilization plans should other nations find themselves facing a situation similar to that confronting Mexico?

Answer. Mexico is unique in terms of its strategic importance to the U.S. The U.S. and Mexico share a 2,000 mile border, rapidly growing trade and economic ties, and growing prosperity. And, the crisis in Mexico presents a unique risk of contagion to other emerging markets.

We will be exploring ways that international financial institutions are prepared and can respond to similar situations in the future.

Question 27. What other countries or international institutions will be involved in providing financial support to Mexico in response to the crisis? What specific steps are being taken by the U.S. government to secure international cooperation?

Answer. Canada is already providing about $1.5 billion Canadian dollars (approx. U.S. $1 billion) in swap credits. The central banks from other industrialized countries, under the auspices of the Bank of International Settlements, are arranging about $5 billion for Mexico.

The International Monetary Fund is arranging a sizable credit in support of a program with Mexico. Mexico is proceeding to negotiate with the World Bank and the Inter-American Development Bank additional loans, which will provide Mexico with a considerable amount of foreign exchange this year.

We are now in the process of encouraging other countries to join the effort.

Question 28. Has the Administration considered requiring the Government of Mexico to make progress in solving and bringing to justice those responsible for the recent assassinations of prominent Mexican political candidates and officials as a condition for authorizing loan guarantees?

Answer. In his inaugural address, President Zedillo said that the Mexican people were not satisfied with the results of the Government's inquiries into the killings of presidential candidate Colosio, political party leader Ruiz Massieu or Catholic Cardinal Posadas. He pledged that justice will be served.

Zedillo instructed his Attorney General, a member of the conservative opposition PAN party, to intensify efforts to resolve these crimes. The Attorney General, in turn, appointed a special prosecutor to investigate these cases. The special prosecutor has already held public news conferences to discuss the status of his inquiries.

In these circumstances, we consider that conditioning authorization of loan guarantees on specific progress would be inappropriate.

Question 29. How much does the Treasury Department estimate U.S. companies/businesses have lost in Mexico since the current situation began?

Answer. We have no reliable estimate on losses.

We have a substantial stake in Mexico, which has already been adversely affected by the financial crisis.

There is $40 billion of exports at risk, which support 700,000 jobs.

The U.S. has $53.1 billion in foreign direct investment.

U.S. investors hold $36.5 billion in Mexican bonds and equities.

Question 31. Will Mexican economic reform efforts and austerity programs lead to a tighter monetary policy, higher inflation, and high unemployment in Mexico? Has the Treasury Department made projections as to the inflation and unemployment rates in Mexico for 1995 and 1996?

Answer. The Mexican authorities have announced plans for tightening marcoeconomic policy in 1995, and are in the process of working with the IMF on a macroeconomics stabilization program. These policy steps include a monetary policy stance that will be considerably tighter in 1995 than it was last year.

Inflation in Mexico—which was in single digits in 1994—is expected to be considerably

higher this year, reflecting increases in prices of imports following the recent sharp depreciation value in the peso. The tightening of policy, as well as the international support program, is intended to keep a price-wage spiral from getting underway and ultimately return Mexico to a lower inflationary path.

The financial problems in Mexico can be expected to lead to recession and higher unemployment in Mexico in the next year. The Mexican authorities have taken steps to contain as much as possible the wage pressures that are likely to be felt in the aftermath of the peso depreciation. To the extent that these efforts are successful, employment losses will be reduced. The international support program, by averting a protracted crisis and a potential collapse in Mexican economic activity, should help minimize the rise in unemployment associated with the nessary Mexican adjustment.

Treasury has not made projections for Mexican inflation and unemployment for 1995 and 1996.

Question 32. Would higher inflation and higher interest rates make it more difficult for Mexico to repay any loans backed by U.S. loan guarantees? Would such economic conditions increase the likelihood of default by Mexico?

Answer. Yes, higher inflation if sustained and especially if accelerating, would impede the efficiency of the Mexican economy and make it less attractive to foreign investors. Both outcomes would undermine the peso and make it more difficult for Mexico to service its external debt, including that backed by U.S. loan guarantees.

The international support program is aimed at ensuring that Mexican reforms continue in a stable macroeconomics setting. The program will allow the Mexicans to make the necessary adjustments with a lower inflation rate than otherwise would be the case and in a political environment that would not jeopardize their reforms. Restoration of a stable economic and political environment will reduce the likelihood of default by Mexico.

Question 33. As the Mexican economy contracts, what is the Treasury Department's estimate as to the reduction in U.S. exports to Mexico? And what will be the impact on U.S. employment?

Answer. We have no precise number because the answer depends on many factors which are unknown.

One that is particularly important is the length of any decline because the growth gap compounds over time.

That is why restoring stability to the Mexican situation is so important.

The U.S. exported over $40 billion in 1993 (estimated to reach $50 billion in 1994.) representing 700,000 jobs.

Question 34. What is the Treasury Department's position on requiring an economic stability assessment (e.g., inflation, unemployment, current account balance ratios, ect.) for any nation with which we are considering opening negotiations on a trade agreement?

Answer. There would be no problem in compiling data. Such information is widely available and would be easy to collect in the context of considering trade agreements.

However, there is no common denominator for movements in these indicators or the relation to benefits that the U.S. derives from engaging in trade.

Our trading partners are diverse—in terms of economic development, structure, and performance.

Question 35. What is the Treasury Department's assessment as to whether there is a banking crisis looming in Mexico, as some analysts have projected?

Answer. The banking system in Mexico has been adversely affected by financial developments in Mexico in a number of ways. Credit lines to Mexican banks have come under pressure, making funding more difficult. The capital ratios for Mexican banks are likely to have declined, since as a result of the devaluation, the peso value of dollar-denominated assets has risen, while the banks' capital remains unchanged in peso terms. Finally, to the extent that recent developments have increased the financial difficulties of some Mexican firms, banks are likely to suffer from increased loan losses.

However, foreign banks will be given greater opportunities to invest in the Mexican banking system, which should help strengthen the banking system both in capital and management.

If the U.S. loan guarantee proposal for Mexico is approved, it should help mitigate the risks to the Mexican banking system.

BACKING FOR THE U.S. GUARANTEES

The United States guarantees will be backed in two ways by Mexico.

First, the Mexican commitments to the United States will be backed by the full faith and credit of the Mexican Government. This is a legal commitment by the Mexican Government to repay the securities issued under U.S. guarantees. The United States will only issue the guarantees on the condition that the Mexicans adopt a strict economic and financial program to help ensure that the Mexican economy has the resources to meet these obligations. In addition, the Mexican commitment to repay will be backed by Mexico's revenues from oil exports. (Mexico exports about $6.5 billion of oil each year.) The United States would have access to these revenues in the event of non-payment by the Mexican Government. The revenues would flow to the United States Government through a four step process based on irrevocable instructions:

1. Before a guarantee is given, Mexico's oil company, PEMEX, will instruct its foreign customers to deposit the payments for their oil purchases in a PEMEX account in a commercial bank in the United States. Such payments will begin on the first day when Mexico could be in default on its payment obligations on its guaranteed securities.

2. If Mexico fails to make an interest or a principal payment on its guaranteed securities, the oil proceeds will be automatically transferred from the PEMEX account in the U.S. commercial bank to a Mexican government account at the same bank.

3. These proceeds will be automatically transferred again to a Mexican government account at the Federal Reserve Bank of New York (FRBNY).

4. The FRBNY will then have access to these funds and can use them to reimburse the United States for any amounts it had paid out on its guarantee, plus interest. In other words, the funds would be transferred to the United States to compensate for any payments made by the U.S. under the guarantee.

This mechanism has been put in place several times before by Mexico and Treasury for loans extended to Mexico. However, it has never been activated because Mexico has always paid off its loan obligations to the United States government.

EXISTING PEMEX COMMITMENTS

Question. Has any PEMEX oil already been ''pledged'' to anyone else?

Answer. Mexico earns about $6.5 billion from oil exports each year.

PEMEX crude oil exports are subject to three existing financing arrangements with non-Mexican banks. Under these arrangements, in a worst case scenario, PEMEX would be obligated to pay roughly ten percent of one year's proceeds of Mexican oil exports.

PEMEX has also entered into an oil proceeds facility with the United States and Canada to back up the drawings under the swap lines established by the North American Framework Agreement.

This facility is currently backing up the $1 billion that Mexico has drawn this month.

FORMER OIL FACILITY ARRANGEMENTS

Question. Has this oil facility arrangement been put in place before?

Answer. Yes, on five occasions since 1982.

However, oil proceeds have never been transferred because Mexico has always paid off its loan obligations on time.

CONSTITUTIONAL OBLIGATIONS

Question. Are there any Mexican constitutional restrictions on control and ownership of PEMEX that could undermine this arrangement?

Answer. No. There are constitutional restrictions on the foreign ownership and control of PEMEX, but they do not affect the ability of PEMEX commit its resources to the United States Government under this facility.

This mechanism has been put in place on five prior occasions, and Mexican government attorneys have always issued legal opinions stating that the mechanism is fully consistent with Mexican law.

POSSIBLE PEMEX EVASION

Question. Is there any way that PEMEX could get around its obligations to the United States government in the event of a non-payment by the Mexican government under a guaranteed security?

Answer. We are making this facility as air tight as possible.

Mexico has agreed that PEMEX will issue irrevocable instructions to all of its existing foreign customers to have dollar payments routed to a commercial bank in the United States. Under these instructions, these payments would automatically flow to the New York Federal Reserve Bank in the event of a default.

This provides excellent protection because the funds will be in the United States.

If PEMEX wants to sell oil currently sold to a U.S. company to an alternative foreign customer, PEMEX would have to secure our agreement in advance.

If Mexico failed to make payments on the guaranteed securities, and PEMEX were to violate its obligations, Mexico would lose all access to the international financial community and face serious adverse consequences in its relationship with the United States.

FULL BACKING?

Question. Does the oil facility provide us full dollar backing for our maximum exposure?

Answer. Yes. The facility provides full dollar backing for our maximum exposure.

MEXICAN OIL RESERVES

Question. How much oil does PEMEX have?

Answer. Estimates of Mexican oil reserves range from 25 to 50 billion barrels.

Assuming that 50 percent of Mexico's oil is exported at $10 a barrel, PEMEX's total potential export oil revenues could range from $12 to $250 billion.

In 1994, PEMEX earned approximately $6.5 billion from crude oil exports and $1 billion from oil product exports.

U.S. LEGAL PROTECTIONS

Question. What legal protections does the United States have in the oil proceeds facility?

Answer. The United States has strong legal protection through the recognized banker's

right of ''set off'' against Mexican oil proceeds in the New York Federal Reserve Bank (FRBNY).

This means that the FRBNY has access to the Mexican oil proceeds and can use them to reimburse the United States for any amounts it had paid out on its guarantee, plus interest.

DEATH OF RICHARD L. ROUDEBUSH

Mr. COATS. Mr. President, the world lost a great public servant and well-known Hoosier last weekend with the death of the Honorable Richard L. Roudebush.

He was born on a farm in Noblesville, IN, 77 years ago. In 1941, he graduated from Butler University in Indianapolis with a degree in business administration. Soon after, he enlisted on the Army just 1 month before the Japanese attack on Pearl Harbor and was shipped out to Egypt in September 1942, where he joined with British Forces during five major battles in North Africa. While participating in the invasion of Italy, his landing craft was hit and was sunk by the enemy, but he survived and continued the fight with the 15th Air Force.

Richard Roudebush's distinguished career of serving United States does not end with his role in World War II. He demonstrated his leadership among his war veteran peers with being actively involved in the Indiana Department of Veterans of Foreign Wars and eventually being elected as national commander in chief of the national VFW.

A friend of Mr. Roudebush's remarked that he was so discouraged at the way Hoosier Congressmen were handling things in Washington, that he decided to run for Congress himself. He did, and in fact, he was elected to the House of Representatives five times, and from three different districts. Through his own efforts, he quickly rose from the ranks to become the assistant minority whip and ranking member of his party on the Committee on Science and Astronautics where he was best known for his instrumental efforts in helping to get America's space program successfully off the ground.

No challenge was ever too great for Richard Roudebush. This was most apparent in the contest for the Senate seat of then-Senator Vance Hartke. Mr. Roudebush did not win the race, but it was the closest Senate election race in Indiana history. Out of 2 million votes cast only 4,000 votes kept him from victory.

His deep affection and commitment to his fellow veterans led him on a continued mission, especially after his congressional days, to help make better the lives of his fellow comrades. After working in the Veterans Administration for 3 years as the No. 3 man, President Gerald Ford nominated Mr. Roudebush as Veterans Administrator in 1974. His dedication to veterans continued later in life as he served on veteran advisory boards and was honored with life membership to most veteran-related organizations.

Richard Roudebush fought for United States and served his country in the public sector as representative of the people. He was a Hoosier hero who exemplified the very best in public service. His vision, knowledge, and zeal for excellence, and determination to see initiatives through to their successful conclusion are some of his qualities that have endured in the Veterans Administration and the Congress. His honors and awards are a treatment to the depth of his service dedication and the impact of his efforts. His presence will be greatly missed, but his work on behalf of veterans and the residents of Indiana will remain a great legacy of which all Americans can be proud.

RECOGNIZING THE 200TH BIRTHDAY OF THE U.S. NAVY SUPPLY CORPS

Mr. THURMOND. Mr. President, I rise today to recognize the more than 5,000 men and women of the U.S. Navy Supply Corps, active and reserve, who on February 23, 1995, will celebrate the 200th birthday of their distinguished service to our Nation and Navy. The naval officers who proudly wear the Supply Corps oak leaf are the business managers of the Navy and are responsible for the logistics support of operating forces in the fleet and naval shore installations worldwide.

The Supply Corps has come a long way since its birth in 1795, when Teach Francis of Philadelphia took the helm as the first Purveyor of Public Supplies. The original charter of the Supply Corps was to support the six wooden frigates of a young American Navy. The Supply Corps has distinguished itself throughout its long history by ensuring that the United States has been ready to defend American freedom and interests in every conflict since the War of 1812. Its responsibilities have grown tremendously and have kept pace with the challenge of providing logistics support to a modern and highly technological Navy, which has grown in size and complexity. Today, the Navy Supply Corps employs the latest technologies and management skills to supply our Navy at the lowest possible cost and with the greatest efficiency.

Having progressed from supplying wooden frigates with cannon balls to supplying AEGIS destroys with Tomahawk cruise missiles, the U.S. Navy Supply Corps continues to carry out its vital mission to keep our Navy well equipped and ready to respond at a moment's notice. I ask my colleagues to join me in congratulating the officers of the U.S. Navy Supply Corps on its 200th birthday.

RETIREMENT OF DONALD E. GESSAMAN

Mr. GLENN. Mr. President, I rise today to make a few comments concerning the retirement of Mr. Donald E. Gessaman of Dayton, OH.

Upon Mr. Gessaman's retirement, the Federal Government will lose one of its most effective public servants. Mr. Gessaman served as the Deputy Associate Director for National Security in the Office of Management and Budget. I would like to take this opportunity to commend Mr. Gessaman on 32 years of outstanding service to his country. He is known for exceptional intelligence, common sense, and good humor. Mr. President, his counsel and wisdom will be sorely missed.

Mr. Gessaman began his career in 1963 as an analyst for the Air Force space program. In 1966, he moved to Washington to become a management intern in the Office of the Secretary of Defense. The following year, he began his work at OMB and has remained there since, rising through the ranks and becoming a member of the Senior Executive Service. In 1990, he assumed his present position as Deputy Associate Director for National Security.

Mr. Gessaman dedicated his career to ensuring that the taxpayers' investment in our Nation's Armed Forces is well spent. The importance of national security issues and the spending constraints imposed by the deficit have made this a daunting task. Yet, time and time again, Mr. Gessaman has shown that judgment, analysis, and a thorough understanding of defense programs can serve both our national security and our economic security.

Mr. Gessaman's professionalism, his thorough analyses, and his commitment to the highest standards throughout his career have inspired his colleagues. I want to join those colleagues and his many friends in thanking Mr. Gessaman and wishing him all the best for the future.

TRIBUTE TO M.R. SENI PRAMOJ

Mr. BAUCUS. Mr. President, I rise to offer congratulations and best wishes to M.R. Seni Pramoj, one of America's great friends, and one of Asia's most accomplished democratic leaders, as his 90th birthday approaches.

And as we prepare to commemorate the 50th anniversary of the end of the Second World War, I would like to remind the Senate of Seni's great service as Thai Ambassador to the United States when the war began.

Seni Pramoj began his career in the 1930's, as one of Thailand's first legal scholars. During that decade, he helped to draft many of Thailand's modern laws, including the law abolishing the unequal treaties Thailand was forced to sign during the colonial era. He lectured to a generation of students at Thammasat School of Law, and before the end of the decade was made a judge on Thailand's Supreme Court.

These accomplishments gained him national recognition far beyond the legal field. And in 1940, at the young age of 35, Seni found himself appointed Ambassador to the United States.

A year and a half later, on the day of the surprise attack on Pearl Harbor, the Japanese Army entered Thailand. A powerful faction within the Thai Government, favoring collaboration, ordered the Thai military not to resist. And later in December, now in full control, they signed a military alliance with Japan.

Their next step was to order Seni by cable to deliver a formal Declaration of War to the U.S. Government. As a patriot and a man of conscience, Seni did not hesitate to do his duty as he saw it. As he recounts the story, he went to the State Department the day after receiving this cable, and told then-Secretary of State Cordell Hull:

> Sir, I regret to say that I have been instructed by my government to declare war on the United States. But I refuse to do it because there is no reason, and I have already cut myself loose from Bangkok. I cannot bring myself to declare war on the United States.

Seni placed the Declaration of War in a safe at the Embassy on Kalorama Road, where it remained for the rest of the war. He refused further to leave the Embassy when the ruling faction in Bangkok ordered him to do so. And instead, he devoted himself to the Allied cause, writing every Thai student in the United States to announce his decision to form a resistance force called the Seri Thai or Free Thai movement.

Virtually all of the 110 Thai students in the United States at the time joined the Seri Thai. Seventy of them trained under the OSS as guerrilla fighters. Others served as technical experts. Some carried out broadcasts in the Thai language. Still others helped American military authorities to identify sites of great cultural and historical value to Thailand, in order to preserve them from Allied bombing raids toward the end of the war.

The Seri Thai movement was equally successful inside Thailand. Inspired by Seni's wartime broadcasts, and trained by his student recruits, it ultimately armed about 50,000 Thai partisans. And following the Japanese surrender, Seri Thai formed the first postwar government, with Seni himself as Prime Minister.

Seni's career since then has been just as distinguished. He was a founder of the Prachatipat or Democrat Party—now Thailand's oldest political party, and ably led by Prime Minister Chuan. He has been, as well, a highly successful lawyer and musician; and Prime Minister once again in the 1970's.

Altogether, it is no exaggeration to say that for the past 60 years, Seni has been at the center of Thai law and politics. And his sincere commitment to democracy, moderation, and the rule of law has helped Thailand become the prosperous democracy so many people around the world admire today.

In a letter to President Franklin Pierce, written in 1856 and reprinted in the book ''A King of Siam Speaks,'' which Seni and his brother Kukrit Pramoj edited some years ago, King Rama IV expressed the hope that the United States and Thailand would forever regard one another with ''friendship and affection,'' and support one another in times of difficulty. And nearly 150 years later, few have done more to make the King's hope a reality than Seni Pramoj.

All American friends of Thailand join in wishing M.R. Seni Pramoj best wishes as his 90th birthday approaches. And we thank him for a service to both our countries which we will not forget.

IN HONOR OF FRANK E. RODGERS, RETIRING MAYOR OF HARRISON, NJ

Mr. BRADLEY. Mr. President, on December 31, 1994, a very special man, Frank E. Rodgers, served his last day as mayor of Harrison. After 48 years of public service, Mayor Rodgers is being honored for his life-time commitment to the citizens of Harrison, NJ.

Mayor Frank Rodgers won his first term as mayor of Harrison after the war in 1946 and began the distinguished career that would make him the longest-serving mayor in the history of the United States. Epitomizing the old adage that all politics is local, Mayor Rodgers campaigned door-to-door all 24 times he sought reelection and maintained an open-door policy at town hall.

In addition to his time as mayor, Frank Rodgers held a variety of elected and appointed jobs in government, including 6 years from 1977 to 1983 as a State Senator and 10 years as a town councilman. Frank's service in the Army during World War II did not interfere with his commitment to public service; he was reelected as a councilman while in basic training at Fort Dix and managed town affairs through calls and letters to his wife and family while working as a military intelligence officer on assignment along the east coast.

Diligence, dedication, and a true commitment to his constituency were the hallmarks of Frank Rodger's career. In his retirement letter to the residents of Harrison, Frank wrote, ''I believe our years together hint at a mutual respect and caring that goes far beyond the requirements of governing.'' Frank Rodgers possessed both the insight to know what it means to govern and the willingness to devote himself wholeheartedly to the task. While his retirement will be a great loss to those who have worked with him and for those he has served, he has left an exemplary legacy of excellence in public service.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The bill clerk read as follows:

> A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the bill.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the Senate is now considering an amendment to the U.S. Constitution. This is not a usual matter and ought not be treated as such. Changing the U.S. Constitution is a very solemn responsibility, and those who wrote the Constitution made changing it very difficult, by design.

I have in my hand a copy of the Constitution. This is a little booklet put out by the bicentennial group that worked on a program to educate the American people about the Constitution. The Constitution begins, as all Americans know, ''We the people of the United States.'' ''We the people.''

I was privileged to go to a celebration in Philadelphia about 8 years ago or so. It was the 200th birthday of the signing of the Constitution. The birthday, the 200th anniversary, was held in the very same room in Philadelphia, called ''The Assembly Room,'' in Constitution Hall, the same room where the Constitution was written in the first place 200 years previous, when 55 white, largely overweight, men sat in a very hot Philadelphia room in the summer and wrote a constitution.

We know that because we know who they were. Two-hundred years later fifty-five people, men and women of all races went back into that room to recreate in celebration the writing of that Constitution. I was one who was picked to be among the 55. And to go into that room on the 200th anniversary of the date of the writing of this Constitution was pretty special. George Washington's chair is still at the front of the room, the chair he sat in when he was presiding, and Franklin sat over there.

It was very remarkable to be in this room where they wrote this Constitution. Even more remarkable was that it was written over 200 years ago by patriots, by people who cared deeply for this country, but also by a homogenous group of people, only white men who came from various parts of the colonies to join in that room and write this document.

We have come a long way. Two-hundred years later it was a diverse group of men and women of all races who celebrated. I sat there kind of getting some goose bumps about the history of it all. I thought: as a little boy I grew up studying about George Washington

and now I am in the room where he helped write this document. It reminded me of what a solemn responsibility it is for us to understand this document and what it means for this country.

We have had all kinds of proposals to change it. I think there have been over 2,000 proposals made over the years to change the U.S. Constitution. Every time somebody gets a notion they want to change it, just change it. Some scruffy little guy in Texas says change the Constitution to prohibit something. One of these days somebody is going to burn the Bible. They say change the Constitution to prohibit something. There are all kinds of ideas on how to change the Constitution. Yet, this living document has served this country for 200 years creating the oldest, most successful representative democracy ever on this Earth. So we are here today to talk about a proposal to change it.

If I might give just one quick story about the understanding of history here, some years ago Claude Pepper, the oldest Member of Congress, was standing out in front of the Cannon House Office Building with young JIMMY HAYES, who was in Congress as a freshman. He was standing next to Claude. Claude I think was 87, the oldest Member at that time. And they were standing talking on the sidewalk when a group of Boy Scouts with their leader breathlessly came running down and looking for directions. They stopped next to old Claude and young JIMMY and they had no idea who they were. They said, ''Can you tell us where the Jefferson Monument is?'' Old Claude Pepper said, ''You go right across the Capitol Plaza to that building with the flag on it, and take a right and go one block, and you will find it.'' Jimmy looked at Claude with a kind of certain strange look. Claude was aged 87. After they left, Jimmy said, ''I think you have given them bad directions. I know where the Jefferson Memorial is. The Jefferson Memorial is a mile away, by the river.''

Well, Jefferson was not around when they wrote the Constitution. He was in Europe. But he contributed mostly through writings and through the force of his thought and various ways to the writing of the Bill of Rights, the most important of which, of course, was free speech. And Claude said, ''Since they asked to see a monument to Jefferson, there is a demonstration on the subject of abortion going on over in front of the Dirksen Building. I feel there is no better place to see a monument to Jefferson and free speech than in front of the Dirksen Senate Office Building today.''

I imagine that the Boy Scout leader did not think of it this way, but he was looking at a monument to Jefferson contained in this Constitution.

There are plenty of monuments in this Constitution that represent timeless truths that have served this country, and will for a long, long time. The question is, should a change be made in this document? Should we change the Constitution in order to respond to the budget deficit? Should we require a balanced budget?

I have spoken on the floor on many occasions on this subject. I have said before—and let me repeat again—that a balanced budget itself is not necessarily the most important goal. Does anyone in America believe that it would be imprudent for us to spend $400 billion more than we have this year and create a deficit of massive proportions if by doing so we could with one stroke eliminate cancer? Does anybody believe we should not do that? Of course not. The question is though whether the budget should be balanced. The question is: What are you doing as a result of these deficits? What is causing them?

What is the result of the deficits? The fact is the deficits that we now have in this country are operating budget deficits. They are not investments in the future. They are operating budget deficits because our fiscal policy has rolled out of control. The question should not be, in my judgment, whether we have on obligation to deal with them. The question is, how?

I came to Congress a number of years ago not thinking we should change the Constitution in this area. Some years ago I changed my mind. We started in 1981 when President Reagan proposed to us a fiscal policy strategy that he said would result in a balanced budget. We had somewhere around a $60 billion to $80 billion Federal deficit at that point. He said, if we simply cut taxes and double defense spending, we will have a balanced budget by 1984. Well, Congress cut taxes and doubled defense spending, and we all know what happened to the deficit.

This line has gone way out of control. These are deficits that are serious, and these are deficits that have accumulated to make a $4.8 trillion debt for this country. That threatens this country's future.

So the question is not whether. The question is what we do about it? The top of this line on this chart is about deficits, and shows something that I think is important. A couple of years ago we had on the floor of this Senate a proposal to deal with the deficits. It was a tough proposal and hard to vote for. It raised some taxes—and nobody wants to pay for increased taxes—and it cut some spending, a lot of folks did not agree with cutting spending in these areas. Yet, our deficit cut actually increased after we passed the bill. We thought it would cut $500 billion, that it would cut the Federal deficit by $500 billion in 5 years. We now know it was over $600 billion. So we have gotten some additional advantage.

My point is that we did something significant in law on the floor of this Senate. You see what happened to the Federal deficit since that point. I am proud to say I voted for that. People come up to me and say, ''How dare you, you voted for that?'' I think the political vote would have been, ''No, count me out. I am not part of the solution. I am not going to make the tough vote.'' I did not say, ''Count me out.'' I voted yes because I want this deficit to come down.

I might say there was not one single vote in this Chamber to help us from the other side of the aisle; not one. Not one Republican voted for this. I am not going to question their motives. They fell very strongly philosophically about some things. When it comes time for heavy lifting, it is very important that everybody be lifting. And we on this side of the aisle did it. I am proud we did it.

The problem is this line does not keep going down.

(Mr. DEWINE assumed the chair.)

Mr. DORGAN. Mr. President, we did this and it was important to do, but all of us know that because of health care costs and other things, this line starts going back up. So this is not enough. The question is: What do we do now to solve this problem in the future?

The Senator from Utah brings to the floor, with many of his colleagues, a proposal to change the U.S. Constitution. I respect him for that. I voted for a change in the U.S. Constitution to require a balanced budget last year. I likely will vote for one again, although there are some changes in this proposal that I do not like.

I want to talk today about a couple of changes we want to make to this proposal and why. As I do that, I want to say that somebody on the other side of the aisle was quoted, I guess yesterday, as saying that those who say the American people have a right to know how we propose to balance the budget are joking. He said that the Senators who make this argument simply do not want to balance the budget.

Wrong. I want to balance the budget. I have voted for a constitutional amendment in the past, and I likely will again. But the question, in my judgment, is not whether we balance the budget; the question is: How?

I think the Senator from Utah and the other original cosponsors of this particular constitutional amendment will agree with me that if it passes 90 seconds from this moment, not one single penny of the Federal deficit will be reduced—not one. This will simply represent a bunch of words that go into the document called the Constitution. And the requirement, then, will be that changes in taxing and spending will have to occur in the magnitude of somewhere around $1.5 trillion in 7 years to accomplish a balanced budget by the year 2002.

I happen to think there is a special responsibility at this moment. The special responsibility is for this reason: The majority party, having won last November, proposes a contract for this country. In the contract, they say two things. They say they want to decrease

taxes, which means cut the Government's revenue, No. 1; No. 2, they want to increase defense spending. If you decide you want to cut the Government's revenue and increase one of the largest areas of Government spending, it seems to me it is logical to ask, if we change the Constitution to require a balanced budget, how do we do it? How do we get to that point, if you say we should cut revenue and increase one of the largest areas of spending?

For that reason, many of us—some who are opposed to the balanced budget amendment, others who support it—do support an amendment called the right-to-know amendment. Once again, the questions for the American people are: What are we going to do, and how are we going to do it? The proposal to change the Constitution answers the question ''what?'' What are we going to do? But the question of how we are going to do it, we are told, is an improper question; leave it for later.

Well, my colleagues, that is business as usual. If ever I have heard business as usual, that is business as usual. I have heard that in 1981, 1982, 1983, 1984, and 1985. Business as usual is: Trust me; I promise you; we will tell you later. No, we do not have the details, but they are there; believe us, trust us; we promise you.

Well, look, how many times do you accept a promise? The American people, it seems to me, have every right to understand the answer to two questions: What are we going to do, and how are we going to do it? The American people have a right to know, from those who say, ''I want a balanced budget by 2002,'' and ''I want increased defense spending,'' and ''I want revenue cuts,'' they have a right to know how we are going to get there.

If I said to the Presiding Officer that I want you to ride with me today and we are going to go to New York City, the Presiding Officer might want to get to New York City; he might have a desire to visit. He might say that sounds like a good trip, and he would like to go. He would probably ask, ''How are we going to get there? Are we going to take the train; are we going to walk; are we going to take a motor scooter; are we going to go through Atlanta or maybe through Los Angeles to get from Washington, DC, to New York?'' He would have every right to want to know how we were going to do it.

That is the purpose of the right-to-know amendment. Its purpose is not to derail the balanced budget amendment. I happen to think we ought to pass the constitutional amendment. I voted that way in the past, as I said, and I probably will this time. The purpose of the right-to-know amendment is to say this must be more than an empty promise. We must, this time, develop a national awareness of what the heavy lifting means to all of us. We need to get the Nation behind us to do it.

Mr. ARMEY, on the House side, said, ''Well, we cannot tell the American people what is required here; it would make their legs buckle.'' I think that is far too little faith in the American people, honestly. We have to do this together. This country belongs to them, not us. This is their country, their democracy. This book, this Constitution, means it is theirs. They have the powers, not us. We have a responsibility to them at this point to tell them what we are going to do and how are we going to do it.

There are plenty of areas of the Federal Government that can be cut and will be cut under any scenario, whether this amendment passes or not. I led a project on Government waste when I was in the House of Representatives and then here in the Senate. I can cite chapter and verse about wasteful spending. I mentioned before the 1.2 million bottles of nasal spray on inventory at the Department of Defense. There are a lot of plugged noses you are going to be able to treat for two or three or four decades. That is the sort of bizarre kind of thing that is in the defense inventory. It makes no sense at all. There is too much waste.

The fact is that it is not the waste—while we should eliminate that—that drives these numbers. All of us know what drives this. This country is growing older. More people are eligible for Medicare and for Social Security. What is happening is that entitlement programs are ratcheting up costs. But there are no votes on those programs in Congress. Those are entitlement programs whose appropriations are virtually automatic. We have to respond to that.

Some of us are also going to offer an amendment on Social Security, and we are going to disagree on that. The Social Security system has not caused one penny of the Federal deficit. This year, we will collect $69 billion more in Social Security than we spend out. That is not an accident. We are doing that by design. We need to save that money for when the baby boomers retire. But if it is not saved, if it is used as an offset to other spending in order to balance the budget, we will have broken the trust and the promise between people who work and people who are retired.

We must, it seems to me, say that we are not going to balance the budget by raiding the Social Security trust funds. For those who say let us not pass that amendment, not give that assurance, I say do not give me five reasons; just give me one reason. There is only one reason you would not want to give that assurance to seniors, and that is because you want to use that money. To use that money is, in my judgment, breaking a promise. The money is collected for only one purpose. It comes out of the paychecks; it is called the FICA tax, and it goes into Social Security, the trust fund, and it is promised that it will be saved for only one purpose, and that is Social Security.

How on Earth can anybody justify saying, well, we do not want to set that aside because maybe we will want to use it sometime? For what? It can only be used for Social Security. Those are two amendments that we are going to have to deal with. And just because we offer them, others on this floor should not argue that we do not support a constitutional amendment to balance the budget.

There is a right way and a wrong way to do things. The wrong way is to provide empty promises and assurances that we are not going to keep. The right way is to tell people you have a right to know; you should know this, and here is the plan. We are going to increase defense, according to some, and cut revenue and, therefore, here is how we are going to deal with other spending.

That is important. It is important for the American people to know.

I want to mention one other thing as I am talking about this. I am, frankly, a little tired of people in this country in politics and especially people in the House and Senate who keep repeating the notion somehow that Government is unworthy.

Government is the way we do things together. It is the way we created our schools to educate our kids. It is Government. It is the way we built our police forces to keep our communities safe. It is Government. It is the way we inspect meat so when you buy some meat someplace you have some assurance that it is not contaminated. It is the way we regulate our skies so when you are flying up there in a jet airplane you are not gong to hit another jet airplane. Government is something we do together. We ought to be proud of it, for gosh sakes.

You must have Government in the affairs of people in a nation like this, and we ought to have the best possible Government we can for the American people.

There is a sense in this country these days of a kind of anarchist mentality. This philosophy suggests somehow, that our Government is just something that just spends all this money and wastes all this money, and is totally unworthy, and that what we ought to do is just get rid of it.

But, you know, the fact is this country has changed a lot in recent years. The rich have gotten much, much richer, the poor have gotten poorer, and there are more of them, more vulnerable people in this country. We have to start thinking together, all of us, to try to figure out how to respond to some of these problems, how do we deal with some of the vulnerabilities in our country. This is how we spend our money. And all of us know where our money goes.

This pie chart shows where Federal spending goes. Defense, 18 percent of the spending; Social Security, 22 percent; health care, Medicaid and Medicare, 17 percent. And, of course, that is going up every year, because more people are getting older, we have more

poor people, and health care costs increase every year. We have to do something about health care costs because if we do not we cannot deal with the budget deficit.

Interest on the debt is 15 percent of the budget. We cannot negotiate that. We have had to pay for that. And if Greenspan gets his way, we will pay a lot more for it.

So Medicaid, Medicare are going up. Interest is going up. Social Security, more people growing older and on disability. In fact, in the Social Security trust fund, we have a surplus for just that reason.

Defense? My Republican friends say we need more defense, so that is going to go up.

So where do you get the rest of it? International—some people say foreign aid, of course, is the biggest area of public spending. It is not. We spend 1.4 percent of the budget for international programs.

So you have other mandatory spending. For domestic discretionary spending, 16.5. Now the 16.5 percent of discretionary spending, that is the kind of spending that we send out to deal with kids' nutrition, all sorts of issues that help people out there who need help.

I know it is easy to talk about these things in the abstract. But now every day you can go out and find what really matters and you can determine how this affects real people. You can go to a food pantry and who walks in and try to figure out what this means in their lives.

You say, ''Well, let's cut off funding that does not make any sense.'' Nutrition programs? That makes no sense. ''The WIC Program; you know, Head Start, we can do without it.''

Yes, I suppose the country can do without it but it will also be a country that is less worthy. It is a country that is not investing in its health and in its children, trying to make life better for children.

You know I remember being at a town meeting in eastern North Dakota one day. An old fellow came up to me by the name of Thor, a guy who had flown combat airplanes in the Second World War. Thor came up to me and said, ''I want to show you my mouth. I got sores all around my mouth,'' a guy in his seventies. He said, ''I need teeth.'' This was an old veteran. He said, ''I have no money. I have nothing.'' And he said, ''I need teeth. I have no teeth. I went to the VA and I got a set of teeth from them and they don't fit. And so when I use them, it creates sores all around my mouth. So I can't use them and I want to show you these sores around my mouth.''

And I am thinking to myself—this was at a town meeting—he walked all the way up to the front, had his mouth open showing me how badly he needs his new set of teeth.

Is it not pretty remarkable, in a country as wonderful as this, that old Thor, who went off to fight for his country and flew in combat and is now in his seventies and for one reason or another ends up with nothing, that Thor has to go to a meeting and stand up to beg to try to get a set of teeth.

That is what we are talking about here. We are talking about things that improve the lives of people.

Senator BURNS from Montana is on the floor. I was in community near the Montana line recently, touring a hospital where they showed me this space where the carpenters were knocking out two-by-fours. They were going to put in big, breathtaking new things. I think it is was an MRI; you know, the technology to look through human flesh to see what is there, a diagnostic tool. Breathtaking technology.

Then about 100 feet down in this hospital wing, they had me hold a little baby, tiny little baby, that had been born some while before, born premature, as a matter of fact. The mother had come to the hospital to have a third child, unmarried. She checked in on a Saturday. Her blood alcohol content was .25 when she delivered the baby. They checked this baby's blood and this baby was born with a blood alcohol content of .21, a little premature baby born dead drunk, and the mother did not even want to see the baby, wanted nothing to do with it. The baby will probably be fetal alcohol syndrome damaged, they do not know.

But think of the consequence of these things, day after day in our country. And we have to be concerned about how we respond to them and how we deal with them. We cannot ignore them. These things tear this country up from the inside.

I am not making a case for massive new programs for spending, because I do not think this is a case where you have kind of a vending machine, where you put in a quarter and get out a national program. But some things we do in this country are very, very important.

Head Start. Boy, you know, we should understand that is a good investment. The WIC Program, we know that is a wonderful investment to invest in kids and low-income pregnant women.

I could tell you a hundred stories, as could all of my colleagues, about the value of some of these things we do that make life worthwhile and make life helpful to people who need help.

I should tell you that Thor has new teeth. Thor got new teeth. Well, it was from a dentist. I talked to a friend of mine, personal friend of mine, and he got Thor some new teeth. But should a veteran have to beg for new teeth? No, I do not think so.

The point is there are programs now to help that young baby. Young Tamara Demeris, who I have talked about on the floor before, a 2-year-old, hair pulled out, nose broken, arm broken, because she was put in a foster home and nobody checked to see whether the people were drunkards. So this little girl was abused.

The fact is, there are things we can do about that. And we have done some things about that. When they come to our attention, we invest and we do some things to try to help people.

But all of these things relate to the decisions we are going to make about what are we going to do. People have a right to know. What are we going to invest in? Are we going to invest in star wars, or are we going to invest in Head Start for our kids? The people have a right to know that.

And to those who say this is joke, I say you are wrong. You know better than that. This is not a joke. This is very serious business. We are talking about changing the Constitution and we are talking about imposing requirements that will make massive changes in the way the Federal Government spends money. And count me in, because I want to force those changes. I have two children and I do not want to give them a $10 trillion debt when they get out of school. So count me in.

I just say this: We have a responsibility, all of us, to tell the people what we are going to do and how we are going to do it. To those who say, ''Let's not tell them what we are going to do,'' I say that is business as usual, the same old tired promises I heard for 15 years. To those of us who say, ''Let's together tell them how we are going to do it,'' we say the people have a right to know. And when we offer our amendment on the right to know, we say to you, ''Join us, accept the responsibility; accept the challenge of closing the loop to give the American people the opportunity to know exactly what we are going to do, to whom and how.''

The American people can take it. The American people deserve it. And to do less, in my judgment, is the same old tired unfinished business of Congress that says, ''Here's our political answer. Now trust us. Details later.'' That is not the way we ought to do business.

I hope that, as we in the coming 2 or 3 weeks move down this road to try to consider in a serious way not only what we are going to do but how we are going to do it, those of us, Democrats and Republicans, who believe the current situation in this country is a crisis, the current deficits threaten this country's future. The current Federal debt and the prospect of burgeoning future debt are challenges we cannot ignore. The question cannot any longer—for anybody on the floor of this Senate—be whether we do something about it. The question is, what?

To those who oppose a constitutional amendment, I say I voted for it in the past and will likely vote for it again. I say to Members, as well, on the other side of the aisle, Members have a responsibility to join in the second step of this journey. The second step, just like a Montana dance, joins the first step. It is change the Constitution to require a balanced budget. And as we do it, tell the American people how we will accomplish it because if we fail to do the latter, we know the former is

nothing more than a bunch of words in a document like this.

So, Mr. President, we will have a lengthy debate and an aggressive debate on this subject. The debate will not be, I think, as the Senator from Utah occasionally would suggest, on whether a constitutional amendment is worthy. This Senator has said before, he thinks it is. I say now I think it is. But I say to the Senator from Utah and his colleagues and my friend from Montana, we have an obligation to do more than this.

I will join Members on this. We have an obligation to do more. We have an obligation to give the people the right to know, as we pass this, what does it mean; what does it mean to their future, and what does it mean to their lives, and how will we respond to it as a national commitment in this country.

Mr. President, with that, I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I appreciate the words of my friend from North Dakota.

As he held up the Constitution, I want to go back to an article that was printed in, I think, the Richmond Times, some time ago, and this last Sunday in the Washington Times. It was taken from the life and times of Davy Crockett, whenever he represented Tennessee and the House of Representatives, and he had to cast a vote to help people when their houses had burned down in Georgetown.

We hold up that Constitution, remember, is a double-bit ax. There is nothing in that Constitution that says we have the right to take my money and give it to somebody else, free, gratis.

So, when we talk about a balanced budget amendment, be very clear that this is not the first time this was a concern of people and leaders in this country. The first constitutional amendment to balance the budget was in 1936. And there was a time, I think, this country pretty well held its discipline on spending, until we really learned as a Government to borrow money, that we could borrow money against future collections, and those are taxes.

I have heard the same old argument, saying, ''How are you going to do it?'' Well, I would say I am going to have to approach this just as I approached running a farm or a ranch. You do not do the same thing every year or nail yourself into a situation that if time and circumstance changes, a person cannot. They do that.

I worked in county government where we balanced the budget. The debate started among the commissioners on what is going to get funded or how much it is going to get funded; and what, maybe, if we do not have the funds, should be cut out. It serves a purpose, but maybe is not as high on the priority list as we would like to see it.

That is what a balanced budget amendment does. It creates the arena for debate. It forces us, as debaters or policy setters, to make those hard choices between doing this or that, and reexamining the mission of government.

The Senator from North Dakota is exactly right. What is the purpose of government? Why do free people establish a government, especially in a free society? No. 1, public safety; he is right. That is an obligation of the total society, public safety. Now, public safety could be food safety, it could be in hygiene; but mostly it is in our fire departments, our police departments, our immediate-response people.

The next obligation, we could say, probably is transportation, because we have to keep the roads and the bridges so that the area of commerce can be carried out. In this great land of ours, we have changed everything around to where it is a global economy and global communication as to where our roads and bridges are satellites, fiber optics, new communications. Those are areas that will be debated here on this floor, as new policy is going to be formed that can keep up with the new technologies that are out there.

What some folks would call investment, other folks would call spending. If we want to define them, I guess they are about the same. Then I guess when we get down to the definition, we come down again to the bottom line, and that is priorities.

Now, with a debt of $4.7 trillion, for too long now after we learned to borrow against future collections, we started to move that national debt up. As I said, the first balance-the-budget amendment was in 1936. In 1934, and that is under the Roosevelt administration, someone had the idea that this thing could get out of hand and was concerned about it. We were in the depth of the Depression. We were trying to help so many people who had been hit by this devastating time; not only the Depression, but drought. And I could write a book on that.

I do not remember those days in 1936, because I was born in 1935. I guess I was a result of the drought; I surely was not a result of the Depression. The last thing you wanted in 1935 was kids, living on 160 acres of two rocks and one dirt.

But the debt that started out, we lost our way a little bit and our discipline. So that debt continues, because we continue to deficit spend. We should get two things straight right here. There is a difference between deficit spending and debt. Deficits cause debt. We deficit spend; we create debt. So no matter that that line goes down, we are still deficit spending. It is still of concern to people who have some kind of sense of responsibility, of fiscal responsibility.

Ever since I came here 6 years ago, that has been a concern, because our concern should be for our children and grandchildren, and the bill they will have to pay later on because we are mortgaging their future.

I was not a Member of Congress when the Gramm-Rudman-Hollings Act was passed, but it was one of the many efforts to control Government spending. While well intentioned, this law fell short of eliminating the deficit. In other words, we as a body of policymakers never really committed ourselves to that law to make sure it worked.

Even with a balanced budget amendment, I am not really sure that we have that discipline today, but I think it will make Members get in the debate and talk about priorities. It is true that we do have laws in place to balance a budget. We did not have the will to really take it serious, to really look at programs, and to take some of the fraud out of it.

My good friend from North Dakota was talking about the man who flew the missions that could not get a set of teeth. And we have people that take advantage of the veterans programs that never got anything, to really have the privilege of using those programs.

The balanced budget amendment would change all of this rhetoric by instilling the necessary fear needed to make the tough decisions and take the hard steps. What are we talking about, even in food stamps; $1 billion a year, $3 billion a year in savings, if we could take the fraud out of it?

Now, that has nothing to do with a balanced budget amendment, but I can remember when talking to the former Secretary of Agriculture in the Bush administration, Ed Madigan and, of course, Ed is no longer with us. We started with a smart card and we saw where we could take some of the fraud out of it. Do you know what stopped the expansion of that idea? The bureaucracy did, because it cost some jobs in Government. Does that not seem strange? We had an opportunity to do that. This will force us to do something about that, whether we want to or not. It will force Members to do it.

So as we go down this trail, trying to come up with a mechanism to instill fiscal responsibility in ourselves, this is, I think, a commonsense approach. And yet there are people that want to make it very complicated.

I came up in 1990 with an idea called the 4-percent solution.

We wanted to deal with the deficit. At that time, if you wanted to reform something to really make it work, the 4-percent solution merely said this: Do away with baseline budgeting, but budget and spend based on previous years' expenditures and only let Government grow 4 percent a year. Based on previous years' expenditures, not previous years' budgets, and not an automatic built-in 6 percent as happens in baseline budgeting.

And you know what, next year we would have been looking at a whole lot

different deal had we done that. We had a few cosponsors on that. It is a very simple thing. Maybe it was too simple. Nobody wanted to really get into it. But basically it just said, ''Government, only grow 4 percent. If you don't want to spend the 4 percent over here, you can spend it over here. You can move it around. But the total growth, bottom line, 4 percent.''

It would have given Congress the flexibility to increase funding at realistic levels for many programs while reducing others and phasing out some that have not worked since World War II and they are still around here.

It did not pass, and now the problem is even worse where even the 4-percent idea will not work. It will not get us to where we want to go.

I think also we have to look at a way to see how this budget or balanced budget will be scored by the CBO and whoever is doing the bottom-line figuring.

There was a joint budget hearing a couple of weeks ago that would do exactly that. I am pleased that that hearing looked at the dynamic modeling and am encouraged that it gave it the attention it deserves. The current revenue method calculates outlays from the Treasury, no matter what the cost-benefit ratio. I believe dynamic review estimating would be a good way to put Government spending priorities in order.

What we are saying is, the policies we set here, tax policies, whatever, change people and the way they do business. It just changes human behavior.

The dynamic modeling of a program would be scored on its merits. Instead of only looking at the amount of money the program costs in outlays to the Treasury, it also would take into account how much money is raised for the Treasury.

I have heard this argument on capital gains. Capital gains is a voluntary tax. How many ranches and how many businesses are we looking at today that are not being sold or even offered to be put on the market because of capital gains? They find other ways of transferring that property, some way to do it. It is a voluntary tax. You do not have to pay the tax because you do not have to sell. So what happens? It does not go up for sale and their commercial activity is lost.

So we have to look for a way, a program which creates jobs, opens up employment opportunities, boosts the economy and raises money for the Treasury. It is commercial activity that does that. Of course, I was not trained in economics. I pretty much have street economics. It is pretty simple: This is accounts receivable over here; this is accounts payable over here. Nothing happens in accounts payable until something happens in accounts receivable. That is the way it is. That is a pretty simple way to go through life. Nonetheless, that is the way we have to score and take a look.

Montanans, like all other people around America, sent a loud and clear message last November 8. There are still some people who are trying to interpret that message, and there will be different interpretations of it as long as there are writers of editorials, as long as there are coffee klatches, as long as there are service clubs. Wherever you hear public discourse, there will be an array of messages that was heard November 8.

But I think I heard the message. I heard the message that says we have to change some things before we really get the job done. Three reforms have to happen: Spending reform, budget reform and regulatory reform; and also something that puts some steel or backbone, as far as picking those winners and losers in spending and the way this Government spends money—priorities. It makes you get on the field and debate the priorities of which direction we are to be going.

An ABC-Washington Post poll taken early in January showed that 80 percent of those polled said they support a constitutional amendment to require a balanced budget.

When looking at budget priorities the Federal Government seems like a good place to start. The Federal Government consumes 23 percent of GDP. The current growth rate of Government spending is 2 percent per year faster than the economy. It's time to get a tight rein on the power and size of the Federal Government. The economist, Milton Friedman, put it best when he said, ''There is nothing so permanent as a temporary government program.''

The Federal Government has encroached on State's rights and spending has gone up to keep pace. Its overambitious agenda steals individual rights even as it indebted the people. Congress and the Federal Government have to get their hands out of their pockets.

It's time to redistribute the power to the States. Shrink the Federal Government and given the money straight to the States. Cut out the middle man—the paper pusher in Washington, DC.

By giving the States block grants they can use the money as they see fit, tailoring it to their specific needs. Every State is different and has different needs. One size does not fit all and the Federal Government should not be trying to force one program to fit every State. What works in California, doesn't always make sense for Montana and West Virginia.

Once again, opponents of the amendment are using scare tactics to defeat this measure. They threaten that important programs will be cut or even eliminated, that it will endanger our economic recovery. There has to be plenty of places to make responsible cuts in a $1.6 trillion budget. And by balancing the budget, Congress can ensure our continued economic strength and future power.

House Joint Resolution 1 allows Congress plenty of time to get the fiscal house in order. Under this amendment, Congress would have until the year 2002 to balance the budget. That's 7 years.

Over the course of 7 years, spending can be reduced gradually. The budget does not have to be balanced overnight. Seven years is a long enough lead time to do the job, and do it fairly.

The President will be required to offer his budget that is balanced based on good faith, but Congress will be forced to stick within its budget.

Balancing the budget is going to take some hard decisions, some politically distasteful choices. But the reward will be a balanced budget and a more prosperous America. It's time to stop impoverishing the next generation of Americans. Pass the balanced budget amendment and put some discipline in the budget process.

I feel very strongly—very strongly—if we do nothing else in this 104th Congress and we pass this balanced budget amendment, I think we have sent a strong message to the American people: We hear you. We care.

But they also hear another message; that they, too, in their neighborhoods also have some responsibility of participation to make sure it works and to help us. That is the message back to the voters: Help us. Help us set those priorities on maintaining this Government and also this great, great free society in which we live.

Thank you, Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I want to reemphasize that this is one of the most important debates that has ever taken place in the U.S. Senate. The subject matter indeed goes to the very heart of the hope of the Framers of the Constitution for the constitutional system—a system that would protect individual freedom and restrain the size and power of the Federal Government. In the latter half of this century, however, the intention of the Framers has been betrayed by Congress' inability to control its own spending habits. I want to explain how passage of the balanced budget amendment will further the intent of the Framers of the Constitution. I also want to demonstrate that Federal balanced budgets—up to very recently in our history—was a customary norm. We must return to that norm if we ever hope to assure the economic well-being and vibrancy of these United States.

THE BALANCED BUDGET AMENDMENT AND THE CONSTITUTION

Mr. President, let me first say what the modern day crisis is: Our Nation is faced with a worsening problem of rising national debt and deficits and the increased Government us of capital that would otherwise be available to the private sector to create jobs to invest in our future. Increased amounts of capital are being wasted on merely financing the debt through spiraling interest costs. This problem presents risks to our long-term economic growth and endangers the well-being of

our elderly, our working people, and especially our children and grandchildren. The debt burden is a mortgage on their future.

Mr. President, the time has come for a solution strong enough that it cannot be evaded for short-term gain. We need a constitutional requirement to balance our budget, Mr. President, House Joint Resolution 1, the consensus balanced budget amendment is that solution. It is reasonable, enforceable, and necessary to force us to get our fiscal house in order. But it not only furthers the economic welfare of our Republic; it fosters the Constitution's purpose of protecting liberty through the framework of limited Government.

James Madison, in explaining the theory undergirding the Government he helped create, had this to say about governments and human nature:

> Government [is] the greatest of all reflections on human nature. If men were angles, no government would be necessary. If angels were to govern men, neither external or internal controls on government would be necessary. In framing a government that is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is no doubt the primary control on government; but experience has taught mankind the necessity of auxiliary precautions. [Federalist No. 51.]

Mr. President, we are here to debate such an auxiliary precaution, House Joint Resolution 1, proposing an amendment to the Constitution of the United States to require a balanced budget, because our recent history has shown us that Congress is not under control.

The balanced budget amendment helps restore two important elements in the constitutional structure: Limited government and an accountable deliberative legislative assembly, both of which are vital to a free and vibrant constitutional democracy.

A deliberative assembly, the essence of whose authority is, in Alexander Hamilton's words, ''to enact laws, or in other words to prescribe rules for the regulation of society'' for the common good, was considered by the Framers of the Constitution the most important branch of Government because it reflected the will of the people. Yet, as the maker of laws, it was also considered the most powerful and the one that needed to be guarded against the most.

Recognizing that ''[in] republican Government the legislative authority, necessarily, predominates'' and to prevent ''elective despotism,'' James Madison, the Father of the Constitution, recommended that the Philadelphia Convention adopt devices in the Constitution that would safeguard liberty. These include: Bicameralism, separation of powers, and checks and balances, a qualified executive veto, limiting congressional authority through enumerating its powers, and, of course, the election of legislators to assure accountability to the people.

However, in the late 20th century, these constitutional processes, what Madison termed ''auxiliary precautions,'' have failed to limit the voracious appetite of Congress to legislate into every area of private concern, to invade the traditional bailiwick of the States, and, consequently, to spend and spend to fund these measures until the Federal Government has become functionally insolvent and the economy placed in jeopardy.

Congress has been mutated from a legislative assembly deliberating the common interest into the playground of the special interest.

The balanced budget amendment, Mr. President, will go a long way toward ameliorating this problem. It will create an additional constitutional process—an auxiliary precaution—that will bring back legislative accountability to the constitutional system. The balanced budget amendment process accomplishes this by making Federal deficit spending significantly more difficult. Significantly, it advances liberty by making it more difficult for the Government to fund overzealous legislation and regulation that invades the private lives of citizens.

THE HISTORICAL NORM OF FEDERAL BALANCED BUDGETS

Mr. President, I would like to read two quotations:

First, ''The public debt is the greatest of dangers to be feared by a republican Government.''

Second, ''Once the budget is balanced and the debts paid off, our population will be relieved from a considerable portion of its present burdens and will find * * * additional means for the display of individual enterprise.''

These quotations are not recent statements by current proponents of the proposed amendment. The first statement was made by Thomas Jefferson and the second by Andrew Jackson.

These two quotations illustrate an important truth: No concept is more a part of traditional American fiscal policy than that of the balanced budget. In fact, Jefferson himself wished the Constitution had included a prohibition on Government borrowing—an early version of a balanced budget amendment, if you will—because he thought that one generation should not be able to obligate the next generation.

Throughout most of the Nation's history, the requirement of budget balancing under normal economic circumstances was considered part of an unwritten customary national policy.

Influenced by individuals such as Adam Smith, David Hume, and David Ricardo, the drafters of the Constitution and their immediate successors at the helm of the new Government strongly feared the effects of public debt. The taxing and borrowing provisions of the new Constitution reflected a need of the new Republic to establish credit and governmental notes and negotiable instruments that would spur commerce.

Yet, the Founders and early American Presidents were in virtual unanimous agreement on the dangers of excessive public debt. Consequently, for approximately 150 years of our history—from 1789 to 1932—balanced budgets or surplus budgets were the norm.

While budget procedures had little of their present organization, the concept of a balanced budget was accepted widely as the hallmark of fiscal responsibility. Those deficits that did occur—during wartime or during the most severe recessions—normally were offset by subsequent surpluses.

Between 1932 and 1960, the rigid rule of annual balanced budgets gave way to a fiscal policy in which balanced budgets remained an overall objective, but in which deficit spending was also viewed as a tool occasionally useful to affect appropriate economic results. Nonemergency deficit spending was legitimized in 1936 with the publication of John Maynard Keynes' ''General Theory.'' Great weight was placed upon the ability of the Federal Government to manage the economy through fiscal policy; that is, through spending and taxation.

However, a real turning point in the history of U.S. fiscal policies occurred during the 1960's. Even the Keynesian objective of balancing surplus years with deficit years succumbed to the idea of regular, annual uncompensated-for deficits. In other words, our deficits, which were historically cyclical, reflecting boom and bust, war and peace, became structural and permanent.

During the 1960's, we were paying for the Vietnam war at the same time as the war on poverty. The Great Society had noble goals and great intentions. But, the Great Society, on top of the war, was financed through debt and helped to develop our proclivity for deficit financing our national aspirations.

During the past three decades, the Federal Government has run deficits in all but a single year. The deficits have come during good times, and they have come during bad times. They have come from Presidents who have pledged themselves to balanced budgets, and they have come from Presidents whose fiscal priorities were elsewhere. They have come from Presidents of both parties.

Even more alarmingly, the magnitude of these deficits has increased enormously. During the 1960's, deficits averaged $6 billion per year. In the 1970's, deficits averaged $36 billion per year. In the 1980's, deficits averaged $156 billion per year. And, in the 1990's so far, deficits have averaged $259 billion per year.

The total national debt now stands at over $4.8 trillion. While it took us over 200 years to acquire our first trillion dollars of debt, we have recently been adding another trillion dollars to our debt about every 5 years and will

continue to do so under current projections at a slightly faster rate as we approach the end of the decade.

Deficits and the national debt have grown, in large measure, because Government spending has grown. As total Government spending has increased, so has Government's relative share of the economy. In 1929, Federal expenditures of $3 billion represented just 3 percent of GNP. By 1950, the Federal share had risen to 16 percent of GDP or about $43 billion. For fiscal year 1993, Federal Government spending of over $1.4 trillion commanded nearly 23 percent of GDP.

To illustrate this growth in another way, the first $100 billion budget in the history of the Nation occurred as recently as fiscal year 1962, more than 179 years after the founding of the Republic. The first $200 billion budget, however, followed only 9 years later in fiscal year 1971. The first $300 billion budget occurred 4 years later in fiscal year 1975; the first $400 billion budget 2 years later in fiscal year 1977; the first $500 billion budget in fiscal year 1979; the first $600 billion budget in fiscal year 1981; the first $700 billion budget in fiscal year 1982; the first $800 billion budget in fiscal year 1983; the first $900 billion budget in fiscal year 1985; and the first $1 trillion budget in fiscal year 1987. The budget for fiscal year 1995 was over $1.5 trillion.

Under current projections, Government spending will continue to rise, using capital that would be put to better use by the private sector to create jobs. To starve the primary engines of economic growth of needed capital is to risk our long-term economic security.

Mr. President, it is absolutely clear that to restore the constitutional concept of limited Government and its protection of liberty—as well as to restore fiscal and economic sanity—we must pass this balanced budget amendment.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we have been focused in the last 6 months on the O.J. Simpson trial, and one of the first mistakes made in that case by one of the defense lawyers was when the defense lawyer allowed O.J. Simpson to give a long statement to law enforcement. It led to that attorney being fired by O.J. Simpson because O.J. Simpson, could have given testimony incriminating himself.

Those of us who have practiced criminal law recognize that people have a constitutional right to not incriminate themselves. The fifth amendment provides for this right. I am sure we have all seen movies where people stand and say, ''I refuse to testify for fear that I will incriminate myself.''

The reason I mention that today, Mr. President, is the majority of people pushing the balanced budget amendment are unwilling to tell the American public what they have a right to know: How the budget will be balanced. They, in effect, are taking the fifth amendment because they do not want to incriminate themselves. They do not want to tell Social Security recipients, and others, that they are going to use the Social Security trust funds to balance the budget.

I believe that this right-to-know amendment that will be offered by the minority leader tomorrow is an important amendment. It is an important amendment because I believe that we have an obligation to tell the truth to whomever asks us for the details. And that is the question that is being asked in the form of the Democratic leader's amendment: How are you going to arrive at the numbers in 2002 to balance the budget?

I think it is important that we recognize that the American people care about this. Eighty percent of the American public believes that there should be a balanced budget amendment. I believe that. But you ask that same number of people whether you should balance the budget using Social Security trust funds, and over 85 percent of the people say it should not be done that way.

So, in effect, the numbers do not support a balanced budget amendment if you are going to use Social Security.

The reason I have been such an advocate of the right to know is because I am the one who last year offered an amendment to protect Social Security. I am going to offer that same amendment. I am going to be joined by a significant number of my colleagues to exclude Social Security from the balanced budget amendment. That in fact should be done.

I believe it is important the American public know how we are going to balance the budget. Why? My friend, the majority leader in the other body, Representative ARMEY from Texas, has stated that we cannot have the right-to-know amendment passed, for if we did, the knees of all Members of Congress—in both the House and the Senate—would buckle and they would not vote for the amendment. Why? Because the American public then would know, in his words, too much. So I believe the American public has a right to know.

Maybe what we should do is change the name of this balanced budget amendment to the trust me amendment. Just trust me. Everything will be just fine. Do not worry about it. We do not need to tell you how we are going to do it. Just trust me. We will call it the trust me amendment.

I believe, Mr. President, that the Democratic leader's demand for greater details is the right way to go. It is insulting to the American public, the people of the State of Nevada, to suggest that we cannot tell the American people how we will balance the budget because, if they knew, they would not support the passage of this amendment. So let us call this the trust me amendment rather than the balanced budget amendment. The American people, you see, Mr. President, should not be treated like sick children: Take the medicine; it will taste fine; it will make you feel better. Trust me.

No, I do not think we can treat the American people like sick children: Just open up and swallow the medicine; it is good for you. They have a right to know and we have an obligation to tell them. We cannot, I repeat, take the fifth amendment and say we do not have to tell you for fear you will hold it against us.

Amending the Constitution is serious business that carries with it far-reaching ramifications. Like a patient about to undergo serious surgery, the American people ought to be told of all the options and all the possible ramifications.

Mr. President, when I first started practicing law many years ago, a doctor did not have a profound obligation in law to tell the patient what might happen to them when they undertook a procedure. They really did not have to sit down the night before the operation and indicate to them: You are going to be just fine, but you should know that in 10 percent of these surgeries this dire result takes place.

No, that was not the rule. But it is now. The case law has made it so that physicians now have an obligation to tell a patient what are the ramifications from the procedure they are about to undertake. The patient has a right to know. The American public, being the patient in this instance, has a right to know what is going to happen, and that is why we are asking that there be a glidepath as to how the balanced budget is going to be reached.

All we are asking—it does not seem too much—is an honest, up-front accounting of how we will be able to balance that budget.

Let us assume that today or tomorrow we passed an amendment to the Constitution that outlawed all violent crimes. It sounds good: We are going to outlaw all violent crimes. But unless we set out a detailed plan as to how this amendment would be enforced and the crimes to necessarily be included, it would not be worth the paper on which it is written.

That is what the balanced budget amendment or the trust-me amendment is all about. We are going to do the right thing, and balancing the budget sounds like the right thing to do.

It kind of reminds me of about 15 years ago at Caesar's Palace in Las Vegas. They were going to have an event. The event was that Evel Knievel was going to jump across the fountains at Caesar's Palace. None of us thought he could do it. He said, ''Trust me; I can do it.'' I can drive my motorcycle and make this giant leap of faith and I will be just fine.

Thousands of people went to Caesar's Palace that day to watch this man perform this act that no one thought he could do. Millions of people watched it on television. And sure enough, he

could not do it. He revved up that motorcycle in his red, white, and blue jumpsuit and off he went. The motorcycle turned in the air, and he was splattered all over the pavement at Caesar's Palace. He still has wounds and he still limps as a result of that event.

Well, that is just like this trust me amendment. There can be no way, in this Senator's opinion, that you can balance the budget by 2002 unless you take Social Security trust fund moneys. Logic tells me that is the case. And as I said yesterday on this floor, Willie Sutton, the famous bank robber, after he got out of prison was interviewed. He was asked: Why do you rob banks? Willie Sutton said, ''Because that's where the money is.''

Well, with the Social Security trust fund, that is where the money is. We are going to have surpluses of billions and billions of dollars by the year 2002 or 2003. It will be about $800 billion. It will go up higher than that, into the trillions, before the downside starts.

I see seated in the Chamber today my friend from Wyoming, the senior Senator from Wyoming. He and I serve together on the entitlement commission. Social Security has problems if we do not bother it, but if we take those Social Security trust fund moneys and use them to retire the debt, we have big problems real quick.

Also, one of the first things I learned in law school is that if you are going to have a contract, you should put it in writing. We have heard a lot on this Senate floor, and especially in the other body, about a Contract With America. We all realize that the real contract with America was negotiated in 1935 when Social Security was passed. That is the real contract with America. And I believe that the trust-me amendment should be an amendment that is a real, true, balanced budget amendment and Social Security should be excluded from it. And to do that we have to put it in writing. We can no longer say to the Social Security recipients—and that is not only old people in this country. It is my children and my grandchildren. I want them to be able to have the ability to receive Social Security. So we want this Social Security exclusion to be put in writing, not some kind of a resolution that does not mean anything.

I have heard that there is going to be a resolution offered that will get overwhelming support in this body. The resolution will say, ''We will not touch Social Security, cross my heart.'' But the American public should understand that resolution does not mean anything legally. I say we must put it in writing in the amendment itself in order to have a real binding, meaningful balanced budget amendment.

So those who may offer a resolution declaring Social Security not applicable under the balanced budget amendment should understand that it will pass overwhelmingly but it means nothing. I respectfully suggest that we need to make sure and understand that such a resolution is only a figleaf to make people's consciences seem a little bit better. Unless it is in the balanced budget amendment—that is, the exclusion for Social Security—Social Security will be the tool used because it is ''where the money is,'' as Willie Sutton said.

On this floor yesterday—I had a dialog with my friend from Utah, the senior Senator from Utah, who has for a considerable period of time managed this bill. Referring to the RECORD of yesterday, I read a statement from my good friend the senior Senator from Utah, where he said:

> Now, that is where we are headed. Make no bones about it. The only way to protect the Social Security trust fund and the Treasury bonds it buys, is to pass this amendment and balance the budget.
>
> Now, Senator REID says we must exempt Social Security because what is—[it says ''what'' but it means ''that'']—that is where the money is. That just is not true. That is where the Treasury bonds are. There is no money there. There are only IOU's which will be valueless if we do not get spending under control.
>
> How do we protect Social Security? We who support this amendment know how. Through good economics, and through a balanced budget amendment. It is the best protection we could give them. The Social Security trust fund is not where the money is. There is no money there. There are only IOU's there.

He goes on to say:

> We have already used the money to pay for other bills of the Federal Government and other spending items.

That is my whole case. That is my whole case. We do not want to do that anymore. This year there will be an excess, a surplus of $70 billion and they will continue to grow. We want to maintain those moneys. We do not want to do what my friend from Utah recognizes has been done.

So I am for the right-to-know amendment. I believe that amendment suggests we should have an exclusion for Social Security. If we do not, we are going to have a cruel hoax perpetrated on the people of this country.

My friend from Utah further is quoted in today's Washington Post as saying, ''The right to know is a joke by those who don't want to vote for the amendment anyway.'' Mr. President, I support the balanced budget amendment and have for many years. But I also support the American public's right to know how we will get the budget in balance. I suggest the only joke we are hearing around here is voices saying, ''trust us.'' The sad fact, however, is that this joke is at the expense of the American people.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I ask the Chair notify me when I have consumed 14 minutes.

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. BREAUX. Mr. President, this is probably one of the most important issues we are going to be asked to debate in this Congress, or maybe several Congresses. I suggest if the Senate today was debating whether Members of the Senate should be allowed to have lunch with a lobbyist, the press gallery would probably be overflowing. They would be listening to every word we say on whether we should have lunch with lobbyists when we come to Washington. But here we are, talking about amending the Constitution of the United States, a decision that can affect every single individual American today—the press gallery looks like a hurricane has just blown through it.

This is an incredibly important decision we are embarking on, taking on in a relatively short period of time—to amend the Constitution of the United States. The balanced budget amendment, it is like apple pie and motherhood and the San Francisco Forty-Niners, everybody loves it in concept. But the devil is really in the details of what we are talking about, and I suggest the details are well hidden. Details about what this means are still in the dark and I suggest that is not the way the U.S. Senate and Congress of the United States should legislate. I think we have an obligation to be honest and frank with the American people, and tell them what we are getting ready to do to them and to the respective 50 States of the United States.

I will start off by saying I support the balanced budget amendment. I have supported it in the past. I have voted for it in the past. I think it is incredibly important that the Federal Government do what most of the States do, although they differ and do it in a very different fashion with the type of budgets they have to keep in balance. They have a capital budget and an operating budget. If the Federal Government had a capital budget and an operating budget, it would be a lot easier for us to balance the budget. We do not have that luxury like most of the States have. We have only one budget and everything is put in. So an effort to balance the budget by the year 2002 is a noble idea, one I support, but one that is not going to be very easy.

My point is everybody is for this in concept but nobody knows the details. So many, in fact, are concerned about what the details really mean and how we are really going to go about doing it that the Republican leader in the House of Representatives, when they asked him what about spelling out the details of how you are going to do this so the people can see it, suggested that we really cannot talk about the details because if we do it nobody will vote for it.

Is that not a heck of a statement to make in the Congress of the United States? That the details are so difficult, and what we are asking the American people to face having happen to them is so difficult to face we cannot tell them about it because, guess what, if we tell them about it we may not be able to do it.

What kind of principles does that stand for? What does that say? We have to pass this in the dark because if we open it up nobody will vote for it? Are we telling the 50 State legislatures if we tell you exactly what this means you will never pass it so we are not going to tell you what it means, we are just going to give you a title and the title says we are going to balance the Federal budget by the year 2002?

If it is good enough to do it is good enough to do in the daylight. Why do we have to do it in the dark? What is wrong with telling them what a balanced budget by the year 2002 really means?

We have to understand in Washington that this balanced budget amendment is not something we are doing here by ourselves. We cannot balance the budget in Washington, amend the Constitution in Washington with a balanced budget amendment, without a partnership arrangement with the States. They have to ratify the amendment that we send to them; 38 States have to analyze it, take a look at it, and say: Our legislators say this is good policy; we will vote to put a balanced budget amendment in the U.S. Constitution.

So they have to be involved. It is a partnership between the Federal Government and the various States in amending the Constitution of the United States. Therefore I suggest the States need to know exactly what this is going to mean— not in Washington, but what it means in the various State capitals around the United States. And I suggest it is not enough for us to say, ''trust us,'' here in Washington—a very novel idea at best. Trust us to do what is right. Trust us to pass this in a way that you are going to be very happy with, trust us to do the right thing that is not going to abnormally affect your States and your citizens. Trust us to make it in a way that you will like. But do not, do not ask us to tell you what it is all about, because you know if we tell you what it really involves you may not vote for it and, boy, would that not be terrible? So please trust us.

President Ronald Reagan used to have a great line when he was talking about the Soviet Empire and all the meetings they had. All the meetings were going fairly well and Reagan would get up in the press conference and say, ''trust but verify.''

It was a great line. It made sense. We wanted to make sure that, yes, we trusted the Soviets to do what was right because that is what they told us, but he also said yes, but let us verify. Let us make sure the trust is more than a promise to do it right, that we actually see in writing what they are going to do. Trust but verify.

The right-to-know amendment that we are suggesting to be added to this balanced budget amendment is really that: Trust but verify. Tell the States what it is going to mean when that balanced budget amendment hits the capital steps in the various State capitals. What does it mean?

I spoke to the National Governors' Conference the other day and I asked the Governors, I said, Governors: What are you going to say to the President of your senate or the speaker of your house when this amendment hits the steps of your capital and you submit it for them to ratify and those gentlemen or ladies come up and say: Governor, what does it mean for us to vote yes to ratify this amendment? What does it mean to my State of Louisiana? Does it mean we are going to have programs cut and if so which ones are we going to have to cut or eliminate or change? Governor, does it mean we are going to have to increase taxes on the State level if the Federal Government quits giving us these moneys for these programs?

Under the current suggestion of our Republican colleagues, do you know what the answers would be of the Governor? ''I don't know. They didn't tell me. They just said we are going to balance the budget. I don't know how we are going to do that. They never told me that. I'm sure they are going to do it right. Trust them.''

I suggest any State legislature that is comfortable with the concept of trusting Washington to do something that makes them feel good and solves their problems without giving them an unnecessary burden has not been in State office very long. Trust but verify.

I looked at the Department of the Treasury. These are folks who crunch numbers, that wear the green eyeshades, and they really work on numbers all the time. They are not political appointees. These are economists who have probably been through several administrations.

Gov. Howard Dean of Vermont, the past president of the National Governors Association, has done a tremendous job in this area. He was concerned, just as I am, and he wrote the Treasury Department. He said, ''Can you tell me, making various assumptions, what a balanced budget amendment would mean to the various States?'' That is a partnership idea. Remember? It is not just us doing it. The States want to know how it is affecting them. Governor Dean wrote to the Treasury Department and said, ''Give me a projection as to what it means to the various 50 States if the Congress passes a balanced budget amendment which requires a balanced budget by the year 2002.''

He got an answer from the Treasury Department. He mentioned all 50 States. I am particularly interested in one State, the State of Louisiana, that I represent. They said this—this is really important information—about the impact of the balanced budget amendment and the Contract With America on the State of Louisiana. They said that for all calculations if a balanced budget is achieved by the year 2002 through across-the-board spending cuts that exclude defense and Social Security—that is probably a fairly reasonable assumption. Our colleagues on this side are talking about increasing defense spending. I think in some areas we need to increase. I would agree with them in some areas. We just had our colleague from Nevada saying do not cut Social Security. Does anybody believe that this Congress or the next Congress or any Congress is going to slash Social Security in order to balance the budget? I doubt it. So I think this assumption is fairly significant, and probably pretty reasonable.

Here is what it said about my State. A balanced budget amendment would reduce annual Federal grants in Louisiana State government by $2 billion. There is $1.5 billion per year in lost funding for Medicaid. My State has a $750 million shortfall in Medicaid this year without the balanced budget requirement being in effect. It would mean $94 million per year in lost highway trust funds. What is going to happen to the roads of Louisiana? Are they going to crumble and fill up with water? There will be $48 million per year in lost funding for welfare programs, AFDC for our children; $324 million per year in lost funding for education, for job training, and the environment, housing, and other areas. Talk about the devil is in the details. This is really devil in the details.

Then it said Louisiana would have to increase State taxes by 27.8 percent across the board to make up for the loss in grants. A 27-percent tax hike? I think not. Louisiana is not going to raise taxes 27 percent. They are not going to raise them 2 percent. The conditions in the State do not allow it. It is not good fiscal policy.

Some of my particular colleagues said that is just the Treasury Department's assumptions, and that is not correct, and you cannot depend on that. Fine. Tell them what they can depend on. If it is not these assumptions that are going to go into play, let us know what these assumptions are. Tell us by showing the States what we are going to have to do to get to that point in the year 2002 when the budget is in balance so that when that State legislature, when the President of the Senate, the Speaker of the House, goes to the other legislators and asks them, ''Bob, Susan, Bill, I need your vote on this,'' they will say, ''Well, you know, if it is going to mean we have to raise taxes 27 percent, I do not think that is a great idea. I am not going to vote for that,'' because they will have the right to say the Federal Government is getting ready to stick it to the States, getting ready to stick it to them in the dark because we are not telling them what it is all about.

I would suggest very simply, if these numbers that the Treasury Department have presented here are not accurate, then, fine. But we in the Congress have an obligation to give them accurate figures as to how we are going to reach that goal of a balanced budget in the year 2002.

Here is the resolution that the Governors have adopted, the Democratic Governors. Everybody was all for it. They thought they were going to make us do something that was uncomfortable. Now they are figuring out how it directly affects them. They are saying, ''Wait a minute.'' The Democratic Governors said:

> We support a federally balanced budget amendment. The Democratic Governors believe the citizens of this country also deserve the right to know the implications of a federally balanced budget amendment. Congress must detail its plans to balance the budget before sending the resolution to the States for ratification.

I think that is at least the minimum that we can do here at the Federal level as we debate this particular resolution. I suggest that it is important for us to let the States know what we are talking about doing to them.

Final point: Some of my colleagues on this side have said, ''Well, we cannot do that. We do not know what it is going to be like 7 years from now.'' I mean we do not know the economic conditions. We cannot project out 7 years. Last year and the year before last we passed the budget reconciliation bill. We did exactly what we are talking about doing today for 5 years. Would my colleague, since they cannot go 7 years, at least tell the States what they can expect for 5 years? We do that all the time. Every bill we bring up has a 5-year glidepath. How much are we going to lose in taxes? How much are we going to raise? What kind of programs are going to have to be cut to meet certain goals?

Let me ask my colleagues who say we cannot do it for 7, would you go 5? Would you consider we do a budget resolution for 5 years and spell it out for 5 years as part of this balanced budget amendment? At least the State of Louisiana would know what it is going to be like for 5 years. I will go 5 years if we cannot go 7. Do not tell them we cannot go 5 because we do that all the time. When we passed the budget reconciliation years ago, we cut the deficit by one-half trillion dollars. Not one Republican colleague stepped up to the plate to support that because it was tough.

I would simply suggest that it is not that we cannot do it, but rather that we will not do it. It is easy to pass a balanced budget amendment in general terms, but this Congress, I would suggest, does not have the courage or the wherewithal or the strength to tell the States what it really means to them. How is it going to affect them? A budget resolution accompanying this balanced budget amendment would let the States know what we are really getting ready to do to them. Shifting the burden of taxation is really easy. It is real easy. I will tell you. If I was a State, I would want this Congress and any Congress to accompany that balanced budget amendment with a budget resolution that spells out exactly what it is going to mean. Without that, we do not have a partnership. Without that, they do not have the information to make the right decision. I want to give it to them. I think that they ought to look at it and decide whether that is what they want to ratify. But do not ask them to do it in the dark.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I want to speak on behalf of Senate Joint Resolution 1, the resolution to provide for the ratification of the balanced budget amendment.

I want to commend Senator HATCH for his extraordinary work and patience in regard to this measure. And also Senator SIMON, Senator HEFLIN, Senator THURMOND, and back through the years, Senator DECONCINI. So many of us have worked for so long on this measure. There are really no other questions to ask about this measure. We have asked them all. We have heard every hypothetical, every argument, every horror story. Everything that could possibly be laid out would fill the Chamber to the seals on the ceiling.

Recently, the President, working with the then Democratic majority in both Chambers of Congress, passed the latest in a series of deficit reduction plans. We have heard reference to that. We did the Omnibus Budget Reconciliation Act of 1993, or OBRA, and it was supposed to shave $500 billion off of the Federal deficit over the next 5 years. This, of course, was $500 billion in ''deficit reduction,'' as defined in the exceedingly perverse language employed only here in Washington. Mind you, this meant not that deficits would be $500 billion lower, or that the total debt would be ''reduced''; it meant that rising deficits would cumulatively amount to $500 billion less than some esoteric, abstract figure which only Washington policymakers seem to understand, and it is quaintly called ''the baseline.''

The ''baseline,'' of course, is everchanging. Lord only knows how the baseline is properly figured, but its chief function seems to be as a device of consolation for the poor, beleaguered American taxpayer. Debt continues to compound and annual deficits are projected still to skyrocket. But, take heart, ye of the faithful, unwashed taxpayers, there was an even worse scenario out there for you called ''the baseline.'' Thank heavens we have all done better than that, and the public is then assured that all is well.

Mr. President, all is not well, and all will not be well until this situation is brought under control with finality. The 1993 budget was only the latest in a long series of similarly hyped budget procedures. Both parties and all Presidents have been so good at it. 1990 was the last one before that, and I voted for that one. We have been passing deficit reduction acts around here for as long as I can recall, and the numbers are always off. They never match; they are never right. Five years later, there was always some dramatic thing that skewed the numbers.

Time and again, they have failed to resolve this situation once and for all. Why is that? One reason and one reason only: Each one of them has failed to deal with the fundamental problem of the entitlement spending explosion. The 1993 Budget Act most certainly failed to do that. President Clinton proposed only modest reforms in Medicare, and he had to face down a revolt from his own liberal wing and remove even those slight changes in order to pass his Budget Act and leave that spending to grow on, unabated, unrestricted. All the while, Congress was debating a huge new entitlement in the form of the Health Security Act.

What is the latest verdict on the 1993 Budget Act? Where are we heading now that we have passed this landmark legislation? The CBO has just reexamined the entire Federal budget outlook, and here is what they find: In fiscal year 1994, the annual deficit amounted to $202 billion. In fiscal year 1995, they project that figure will shrink to $176 billion, and there is joy in the streets with regard to that figure—at least more joy on the other side of the aisle than here, because that does not mean we now will owe less money as a Nation; it is $176 billion more in debt that future taxpayers will have to pay off, but it would represent slightly less than we added in fiscal year 1994.

Where do we go from here? In fiscal year 1996, the CBO tells us the annual deficit will again be back up to $207 billion—more than either of the 1995 or 1994 figures—and it keeps going up after that. We all know it and we talk about the figures on the floor. It will go up to $253 billion in fiscal year 1999, and we all know it.

Not only do hundreds of billions in debts stand to be added to posterity's burden every year, but we stand to add to that debt still more quickly—not at some distant, far-flung date, but next year, 1996, according to CBO, is when annual deficits begin to skyrocket again.

Mr. President, the 1993 Budget Act affected no fiscal years earlier than 1994. This is progress? Skyrocketing annual deficits are still projected for as far as the eye can see beginning next year. I can personally tell you that the long-term picture is much, much worse than that.

I had the ''honor''—and I put that in quotation marks—to participate in the collective suicide mission that was known as the President's Bipartisan Entitlement Commission, or the Kerrey-Danforth commission, named after its tireless chairman and vice chairman. If you want to know what will happen to this country in the next century, in the next 25 years, the next 50 years, get a copy of our report. There were more than several Senators on the bipartisan commission, a wonderful group of people, Democrats and

Republicans alike. Get a copy of the report that was released last Friday. It lays it all out in vivid, full-color graphs. The Senators involved on the entitlements commission were Senators KERREY, DANFORTH, MOYNIHAN, SASSER, MOSELEY-BRAUN, REID, BUMPERS, DOMENICI, GREGG, COCHRAN, WALLOP, and myself. We all were involved. See our work product. See that 30 of the 32 of us agreed that in the year 2012, even with no new spending initiatives and with no increase in taxes, there will be only sufficient funds to pay for Social Security, Medicare, Medicaid, Federal retirement, the other entitlement programs, and interest on the national debt; and there will be nothing—nothing—for defense, transportation, education, WIC, WIN, Head Start, NEA, NEH, or any other discretionary program of the Federal Government. Zap. Nothing. We all know that, too. At least 30 of 32 of us who sat for nearly a year know that. I would think our colleagues would want to listen to what we presented.

But I favor the balanced budget amendment because I just simply think it is ''shock therapy.'' There is no other purpose for it. It is to force us to confront the real components of the Government's spending problem. The opponents of the balanced budget amendment say it is not needed, that all is needed is for Congress to ''screw up'' its collective courage to pass legislation curbing rising deficits. That is an appropriate, I think, two-word description of what we have been doing with regard to the budget for years.

I know all too well what happens when you try to do that. You get exactly the sort of hysterical propaganda that is currently being hauled out in bales by the metric ton in opposition to the balanced budget amendment.

Phrases ring through the Chamber: ''Tell us how you are going to take food away from starving seniors and hungry children,'' they say. Spell it out to us. When you try to explain that you are only talking about more modest increases in Government spending, you are lost and they are lost. And then they unleash on you.

We have not proposed a ''cut'' of anything in Social Security. We have not proposed a ''cut'' of anything in Medicare, or a ''cut'' in Medicaid. We are just trying to slow the growth. Apparently, it is still not being heard. So if Medicare is going up 9 percent, we say let us let it go up only 6 percent, and it is described to the American people as a ''cut.'' It is a sad day for the use of the English language and a true distortion of what is being said.

A 6-percent increase is not a cut. And it is sad to watch that continual description over the media and in this Chamber about cuts when all you are trying to do, and we all are trying to do, is limit the increase in growth. Not a cut in a carload.

In short, Federal budget policy debates are eternally paralyzed around this place because the real issues are obscured in a haze of misleading anecdotes, rhetoric, and carefully crafted statistics. Just try to come down to the floor, as I say, and suggest that this year we are going to let Medicare go up only 8 or 6 percent instead of the 10 or 9 percent projected. Broadsides will be fired all across the country saying that you are planning brutal cuts in Medicare. How could you—choke, gasp, sob—do such things?

Why should you make such a heartless proposal anyway? Why not just cut foreign aid, or raise taxes on the rich, or get rid of the tse-tse fly study? That is a marvelous thing, if we could just get rid of the tse-tse fly study. It is only 100,000 bucks. Or get rid of the highway demonstration projects. Try that one, at least in the House. They used to try it. That is like pulling teeth with no anesthetic. Or, of course, if we get rid of the restoration of Lawrence Welk's house, that would do it. If we could only end that sort of thing. Or congressional pay raises and we should look at that, indeed.

And we never did one of those here in all my time here while in the dark. The last one which was reported to the American public by the media was that we voted in the middle of the night for a pay raise. I think it was about 9:45 in the evening and everybody was here and everybody voted ''yes'' or ''no.'' I do not think that is too much of a secret endeavor. And anybody can go look and see how anybody voted. We do not do it that way.

Well, maybe get rid of the franking privilege. That's it. That would solve all our problems. Or just simply abolish waste, fraud, and abuse. Oh, if we all did that, there would be no problem.

Well, so long as Congress is not forced to actually balance its books, it will be possible to survive politically—and there is the key, ladies and gentleman—while pandering to every public misconception there is about the structure of the Federal budget.

I have served our party as assistant leader for some 10 years. And I commend my successor. He is doing a splendid job. I am proud of him, my friend, Senator TRENT LOTT.

And, as an aside here, let me tell you why I am going to vote for term limits, so that you may hear. Of course, I was not for it when I was running for my third term, but that is another story! But I can tell you, I will vote for that and I will tell you why.

I cannot tell you how often—about once a month—in my duties I would say, ''We need your vote. It is a very critical vote for the Nation's best interest. We need it.'' And they would say, ''I know it is a critically important vote and we do need it, but I cannot vote for it because if I do I will be history. I will be gone. I will not get reelected.'' And I would say, ''So this is your sole reason for not voting for this amendment or this bill, is that you will not get reelected?'' And they would say, ''You got it.''

And so I say, nothing would be better than the term limits legislation, because once it kicked in, one-third of this body would be voting right. One third of these Senators would vote right. And then, in the duties of the leadership, all you would have to do is go find 18 other people out of that pool of about 40 who always cast the tough votes. There are a group of about 40 in here, Democrat and Republican alike, who often cast the tough votes, consistent tough votes. Do term limits, then you would have a third of them doing it right. They would be unshackled and you then go dig up 18 more and you have your 51 to pass an issue. It would change this body immensely.

So I certainly look forward to the day when the Congress actually has to balance the books as would be required by the Constitution of the United States and as required in constitutions of other States. And I said before and say again, it would be ''shock therapy.'' And I would relish it.

Because everyone who has been making a lifetime career of running against foreign aid or for increased taxes on the rich or always prattling about class warfare and why cannot we just do what we were hired on to do—let us check them out in the old hypocrisy index. The index hurt a lot of them in the last cycle. It scored up how much they talked about cutting and how they actually voted, especially and solely on spending. We all do it. I do it. We all do it. Look at our votes. One man's junk is another man's treasure; some pet project, some massive public works. We all do it. Every single one of us do it.

And so, if we would do those things, we would see those people exposed in one fell swoop. They will then be bound to the Constitution with hoops of steel to balance the books, and when they come out with a proposal to eliminate the 1 percent of the budget that goes to foreign aid—1 percent—that just will not get the job done, and they will be forced to come back and try again.

Or they will say, let us raise those taxes on ''the rich,'' and they will get about a half inch closer to solving the problem that way and once more they will have to try again.

I have a certain perverse strain in my nature. When people at a town meeting say, ''Why don't you just nail the rich and we could seal this hole and make progress?''

I say, ''No, no. Let's not increase their taxes. Let's take everything they've got. Why mess around? Let's take every stock certificate, every ranch, every yacht, every piece of property. Let's take it all. Let's take every debenture. Let's take all the big family money in America, all the Wal-Marts, all of this, all of that.''

Guess what? It would be about $800 billion and that would run the country for 6 months—$800 billion would run the United States for about 6 months. That is in taking it all. That is in taking the Fortune 500, the Forbes list, the

whole works. Take it all, $750 billion or $800 billion, and yet the budget this year is $1.506 trillion. Not a very good idea then, but it sounds so good.

Certainly, just as there are today, there will be those who will win elections by uttering such platitudes, and in today's process, they can still go back to the electorate the next time around and say, ''Well, we failed to balance the budget because the Congress didn't adopt my wisdom. We aren't taxing the rich enough, we did not cut foreign aid.'' And there are still some to cut out there. I saw it myself. ''There is $15 billion out there, folks,'' and they all get glandular reactions from that. But $15 billion will not get you there because the budget is $1.506 trillion. And who is the wiser in that process?

But with this amendment, this courageous amendment, the American public will become educated in a real hurry about where and how the Government spends its money, and I am greatly looking forward to the anguish connected to it all. No wonder it is opposed by every special interest group whose job it is to drain the Federal Treasury. Their executive directors are paid to horrify the membership to get them all worked up, to be sure that they earn their salary, to be sure the letters come cranking in, without regard to the burden placed on future taxpayers.

Do you really think that the AARP—the American Association of Retired Persons—really wants the people of the United States, or even their membership, to really find out that you cannot enact their $1.3 trillion—get this figure, $1.3 trillion—agenda and balance the books at the same time?

Hear me. This is a report from the National Taxpayers Union Foundation of April 28, 1993. The next time you go to a town meeting and the AARP is out there—and let us remember who they are—there are 33 million of them who pay 8 bucks dues and they are bound together by a common love of airline discounts, and automobile discounts and pharmacy discounts.

Do their members know what their agenda is, ladies and gentlemen? Their agenda is this: Long-term health care for everyone in the United States, regardless of their net worth or their income. Ring that one up. Universal long-term health care, regardless of wealth. That is $60 billion over 10 years. Second, expand Medicaid to cover all below poverty, $35.7 billion over 10 years. Catastrophic care, $15.8 billion. Medicare to cover ''near elderly''—I suppose those are people that fall into the 45-year-old category, because that is only 5 years below the admission date of your ''elderly'' age to get into the AARP; members only have to be 50, so I suppose ''near elderly'' is defined as one 45 years old—that is $10 billion. Expanded Medicaid long-term care, $7.3 billion. Changes in Social Security benefit formulas, $19.1 billion. Expansions in earned income credit, $15.2 billion. Expansions of SSI, $7.7 billion. Housing assistance for all who qualify, $34.6 billion.

So the next time Members are getting in a little scrap from the old AARP, and they are out there with signs and posters, ask them if they have any grandchildren, first. That will get a rise out of them. Then ask them how we are supposed to pay $1.3 trillion for the next 10 years to take care of their agenda they tell their Members about in their magazine that looks like a clone of the Smithsonian magazine. Ask them.

I imagine my mail will pick up when I return to my chamber. There will probably be a little bit of light anecdotal material like, ''You rotten—.'' I do not know what it will be, but it will be heavy, and it will come from AARP members who do not know one thing about their membership asking this Treasury to cough up 1.3 trillion bucks in the next 10 years for people, regardless of their net worth or income.

Some of it is not ''affluence tested.'' We ought to affluence test it all. I want to be very clear. I am not talking about people who are poor. I am not talking about seniors who have no proper nutrition. I am not talking about Meals on Wheels. I am not talking about Green Thumb. I am talking about people who, to some, the cost of living index and the cost of living allowance is the cost of ''living it up.''

One of the saddest things—the saddest thing—that I saw in the entitlements commission was where a young man came and testified with a young people's advocacy group. Boy, young people better start paying attention here. These young people came and testified, one young man with sadness, said that he visited his grandfather in Florida, and he loved his grandfather dearly. And the COLA, cost-of-living-allowance—to his grandfather, who was a lovely man and had done well in life, was whether he would be able to upgrade his country club membership. Ladies and gentlemen, that is not what a COLA is for. A cost-of-living-allowance is something to take care of someone who is truly needing that.

We are going to have to start affluence testing the COLA's. We are not talking about cutting a single cent from a Social Security benefit. Hear that one. I do not want to hear any more of that babble. Nobody here except one group, which I believe is a remarkable group, including our former friends from the Senate, Paul Tsongas and Warren Rudman, have suggested affluence testing of the benefits. I have not subscribed to that. But we are certainly going to subscribe to affluence testing of the COLA's or we will not make it, because they range between $7 billion to $22 billion a year, depending on the Consumer Price Index, the CPI. Unless we breathe reality into that index, we will not make it, either. It is distorted. It needs correction. It still has a commodity designation in it called typewriters. It is not even current.

Well, I could go on, and Members are thinking, ''He is going to.'' But I will say this. This is a tremendous challenge. The House has taken up the burden. They secured 300 votes. We in the Senate should pay careful attention.

Let me conclude with what should be obvious to all Members, if not so already, is that the struggle is between those who are seeking to keep this amendment in a form that can pass this Congress, and those who will find every single indirect means to bring it crashing down.

I applaud the distinguished Senator from West Virginia [Mr. BYRD], the very able, venerable conscience of the Senate, for his forthrightness and courage in opposing the balanced budget amendment. Subterfuges are not for him. Deception and chicanery are not his tools. He is right out front. He openly declares his opposition to this amendment, honestly lays himself out to the judgment of his constituents, makes his argument, and states his reasons for opposition as his means of fighting hard against the passage of the amendment.

But it is my view that the greatest danger comes from those who will be tripped up in supporting, with all good intention, any number of amendments that will be offered as a means of peeling away the two-thirds majority support that the amendment must have. Members will see those. And the House protected itself against those carve-outs.

Make no mistake: We will kill the balanced budget amendment if we pass any modification that will leave us with a resolution where we cannot secure the necessary two-thirds in both the Senate and the House and we must not do that.

Let me put it quite bluntly: A vote to exempt Social Security from the balanced budget amendment is a vote to kill the balanced budget amendment; a vote to include a tax limitation is a vote to kill the balanced budget amendment. I am not talking about motives here. I am speaking of the serious practical effects. That is what will happen if these modifications pass. A vote to create a capital budget is a vote to kill the balanced budget amendment. Those issues have been tested, fought over already in the House, and in the Senate for years in the Judiciary Committee. We want to send the balanced budget amendment to the States for ratification. We need to keep it in a form we know to have the requisite support. Every supporter of the balanced budget amendment needs to clearly understand this, as there is little margin for error at this stage of the game.

To those who assert that the balanced budget amendment would impose a terribly unfair burden on individual States as the Federal Government pares down its spending, I make two points in response, in final response.

First, we just completed action on the unfunded mandates legislation. This is the best ever protection of its kind for State budgets. Second, it seems to me that the States are in the best position to decide that, after all, and this must be ratified by the States; three-fourths of them have to decide that they want this. They are far better custodians of their own interests than we could ever be.

So, Mr. President, I look forward to vigorous and healthy debate. I think we have begun this on this issue of central importance to our country. I have great enthusiasm for this one, albeit a bit of a personal stake. I personally assumed the ill-advised and totally politically incorrect responsibility of charting out just how I would get this country's fiscal house in order during the coming decades. It is enclosed with the Entitlements Commission report. Members may ask me for a copy, and I shall send it to Members in a brown, unmarked envelope so Members need not know that we are really proposing some dramatic things. No one will know Members received it. And there is nothing I would enjoy more than some added company in the suicide mission, however involuntarily compelled. I seek your assistance if this earnest effort.

I thank my colleague, and I yield the floor.

Mr. LOTT. Mr. President, I thank the Senator for the recognition. I do not plan to take a long time in my remarks here on our constitutional amendment for a balanced budget. I want to thank the distinguished Senator from Illinois [Ms. MOSELEY-BRAUN] for her cooperation in allowing me to go forward. I want also to commend her for her very fine statement on the balanced budget on Tuesday.

Mr. President, the election of 1994 was more than the usual biennial contest for seats in the Congress. It was, in effect, a national referendum. The American people made a historic choice between more government and less government. They chose the latter—less government. Their message to us could not have been more clear. They want fundamental changes in the way the Congress conducts business. And the most important change they want is in the way we spend their money.

Every Member of Congress knows that the public wants a balanced budget amendment to the Constitution. Poll after poll shows that. The only question is whether we will give them what they want.

I think we will. I am convinced that no matter how ferocious the opposition, the time has finally come when the Congress will submit a balanced budget amendment to the States.

I do not say that as boast or bravado because the drive for a balanced budget amendment is not something for which we can take credit. I do not think any of us in Washington can.

If there has ever been a grassroots crusade, this is it. If ever the American people were determined to take the future back into their hands, I think it is now. That is the reason the House has already passed the joint resolution for a balanced budget amendment to the Constitution, the one we are debating now, by an overwhelming vote of 300 to 133. That was a bipartisan vote, or rather, it was nonpartisan. After a lot of debate, after rejecting some tough amendments, and after resisting pressure from all the usual special interest groups, 300 Congressmen voted for this balanced budget amendment.

I hope the amendment will have the same broad support in the Senate. Even if, in the past, most of the votes have come from this side of the aisle, it is obvious that there is support for it on the other side as well. There is support for a balanced budget amendment from Republicans and Democrats, from conservatives, moderates, and liberals. And we should come together, after full debate, vote on this issue and pass it.

The reason for the amendment's broad support, both in the Congress and most importantly among the public, is that it is no longer just a fiscal issue, no longer an accounting question. More than anything else, it has become a moral issue with the American people. It has become a question of what we are doing to our children and our grandchildren—leaving them a monstrous national debt of some $4 trillion, a debt that will eventually crush the life out of their economy and the spirit out of their enterprise.

There will be those who will say, ''Well, how did we get here? Why didn't you fix this problem in the eighties? Why didn't we do more in the seventies?'' We can debate that and we can point back, but I am reluctant to do that. A lot of us in this Chamber have to take some of the blame. I think we all do, especially those of us who have been here more than a couple of years.

So I am not trying to say the blame should go back to President Carter or President Reagan or President Bush or a Democrat Congress, or to the Appropriations Committee in the House or the Senate. That is past. Let us talk about how we can go forward and get control of the insatiable appetite that we have developed over the last 40 years to spend and spend and spend. It is really that simple.

We cannot fix the deficit this year or in 2 years or in 3 years. But we have to begin sometime, someplace. Now is the time, and this is the place. We can get the budget on a glidepath toward balance over a period of years.

The number of years it takes is not as important as the fact that we get started.

Thomas Jefferson summed up the matter two centuries ago. This is not one of his more familiar quotes, but I think it is important that Thomas Jefferson, in retrospect, thought it was a mistake not to include a balanced budget requirement in the Constitution. This is what he wrote:

> The question of whether one generation has the right to bind another by the deficit it imposes is a question of such fundamental importance as to place it among the fundamental principles of the government. We should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves.

Those are powerful words from Mr. Jefferson. And when I said, a minute ago, that the deficit is more than an accounting problem or a fiscal problem, I was echoing Jefferson's observation that we are morally bound to pay, ourselves, the debts that we incur and not dump them off on our children. That is what is involved here.

Jefferson's advice has fallen on deaf ears in Congress, at least for the last several decades. Even when the Republican economic program of the early 1980's launched the longest peacetime economic expansion in our country's history, with a tremendous increase in revenues for the Federal Government, the Congress—and perhaps the executive branch as well—managed to spend all that new money and still go deeper into debt.

For the last 2 years, some people have been trying to revise history by making the decade of the eighties a bad time. But in fact, the eighties were prosperous. A tremendous explosion of additional revenue came into the Treasury. And with it, we should have been able to control the deficit. But we did not do so because we kept spending even more. Every time we got more revenue, we would spend more money.

We all go home to our States, counties, and cities and they say, ''Can you help us with the water system?'' ''Can you help us with another highway project?'' ''Can you help us with more funds for this good program or that good program?''

We all say, ''Gee, you're right.'' We want to do that. So we come back up here and want to give them everything they want. But in fairness, it should also be our responsibility to balance the books. We have forgotten that part.

It is not as if we have not had enough revenue. We have had ever-increasing revenue every year. But in search of even more revenues, Congress raised taxes in 1982, in 1984, in 1987, in 1989, in 1990, and most recently in 1993 with a whopping $241 billion hike. Through it all, spending outran those revenue increases.

I voted for some of those tax increases because I thought, if the people want all these expenditures, then we have to pay for them. So I voted for the tax increases in 1982 and 1984 and, I recall, reluctantly in 1987. But then I said, ''Wait a minute, I'm not doing this anymore. Every time I vote that way, it doesn't help reduce the deficit. We just spend even more.'' So I did not vote for a tax increase in 1990 when George Bush was President, and I did not vote for it in 1993 when Bill Clinton

was President. I decided that more revenue would not help to control spending or reduce the deficit. We would just spend it.

Time and again Congress promised to reform, lamely requiring a balanced budget at sometime in the future. We had Gramm-Rudman. I voted for that. I thought it would work. What did we do? We started off saying, ''Look, we can't have it apply to this program or that program,'' and after a while, 21 programs were exempt. I was in the gang of 17 in the eighties when we tried to get control of spending. We had the Fort Belvoir exercise in budget control. That didn't work either.

So time and time again we in Congress have tried to do it ourselves, to find a procedure to make it happen. It did not work. Those votes we had did not do any good. The debt continued to increase to the point that interest payments alone are costing us $230 billion in the current fiscal year.

It would be nice to think, Mr. President, that everyone on Capitol Hill has learned their lesson and that things will be different from here on. That is what Lucy tells Charlie Brown every time she pulls away the football and he lands flat on his back. Sooner or later, even Charlie Brown may run out of trust. The American people certainly have, and they said so last November. We fooled them too many times. That was the real meaning of the 1994 elections.

In simplest of terms, the public took back the football. Now they are demanding a permanent structural change in official Washington. They will not be content with superficial adjustments. Who can blame them? The Congress has not balanced the budget in a quarter of a century—since 1969. And without the discipline of the balanced budget amendment, I do not see any prospect of our doing it any time soon.

In recent years, poll after poll showed the public's poor regard for the Congress. And yet, just recently our positive polling numbers doubled, from the 20's to the 40's. What has happened in the last 2 or 3 months that caused the approval rating of the Congress to go up?

I found out this past weekend when I went home. I went to Hernando, MS, to Grenada, Carroll County, and Cleveland. You know why people are pleased with us now? Because they think we are beginning to do some of the things they want us to do.

Now, they are still dubious. They want to see action, not just words. But they like better what they see us talking about. They like the fact that we are doing more things in a bipartisan way, and that maybe we can work with the President. That's progress.

In recent years this institution, in my opinion, has been viewed as the pickpocket at the parade. When we do business, the cheering stops. We have to change that image.

This balanced budget amendment is our best means to set things aright. It will do more than restore fiscal sanity to the Congress. It will go a long way toward restoring the trust of the American people in their institutions of Government. That task is probably even more urgent than balancing the budget, although I think that is an important part of regaining that trust.

I realize that amending the Constitution is not a casual exercise. I struggled with that. It is a last resort, sometimes a desperate resort, when all else has failed. That is the case with the amendment before us.

Many of us in Congress, both in the House and Senate, have worked over the years to stop, or at least slow down the spiral of debt. We do not have much to show for our work. In the same way, the American people have tried by protest and petition, by their voices and their votes, to discipline the appetite of the Federal establishment, to restrain its growth and limit its intrusion into their lives.

Those ways have not worked. So now we have no recourse. If the Congress would be fiscally restrained no other way, by either honor or common sense, then let it forever be bound by a constitutional amendment.

If we want the people to trust us, we have to trust the people. We have to trust their judgment about this amendment. Remember, they will make the final decisions as to whether it becomes a part of the Constitution. Our vote here will only give the States the opportunity to vote. The State legislatures, on behalf of the people, decide whether the language we have before us actually goes into the Constitution.

Sometimes they surprise us. If we get carried away, the States do not ratify the amendments we send them. Recall that after the equal rights amendment passed the Congress, and even after Congress gave it a legally dubious extension of time to seek ratification, it did not get the approval of three-quarters of the States.

The last constitutional amendment Congress approved, giving the District of Columbia the same voting representation in Congress as the States, failed miserably. Only a handful of States ratified it.

So if we do not deal with this amendment in the right way, the States will simply not approve it. They will not rubberstamp the balanced budget amendment or any other constitutional amendment we send them.

There are those who are going to say, ''Show me how you are going to balance the budget. You say you are for a balanced budget amendment. Show me your cards.'' I think we could turn that around and say, ''Show me how you are going to do it if we do not pass a balanced budget amendment.'' We have been going through that exercise for years. We cannot bind future Congresses. Budget projections are so unreliable, we can barely depend on them for a year or two, much less through the decade ahead. So much always depends on things we cannot know at the present. We cannot say with great detail what money will be required for defense or welfare or disaster relief in the future. We just have to get started. But there has to be a hammer, and this constitutional amendment for a balanced budget is the hammer.

That is all the more reason to keep the language of this amendment clean. It is not a mere law, which we could come back to in a month and amend. If ratified, it will be a part of the most remarkable political document in history: the Constitution of the United States.

That political treasure should not be made to read like a section of the Code of Federal Regulations, citing chapter and verse of various programs. Attempts along those lines are rightly suspect when they come from those who, for years or for decades, played key roles in running up the staggering deficits we now face.

The Federal deficit is like a fire consuming our national prosperity. And now the barnburners want to tell everybody else how to put out the flames and where to aim the hoses.

Their advice has a hollow ring. It seems designed to insulate the Federal spending machine, not any particular program. No one should be surprised at that. The special interests that have, for so long, dominated the Government's budget do not want to leave their places at the public trough. So they are fighting this amendment with every diversion, every red herring they can devise.

Those liberal lobbies had their chance to appeal to the American people last fall, but the voters resoundingly rejected their case. That is why we are now considering this amendment: Because the Federal gravy train stops here.

I realize that, to some of my colleagues, the balanced budget amendment must seem like a repudiation of their entire career, negating their lifetime in public office. So be it. We are guaranteed a favorable place in history only when we write it ourselves. This time around, others are doing the drafting.

Some may find comfort in the past, when it was political summertime, and the spending was easy. But those days are over. The American people are looking to the future, and they are determined to shape it their way, this time around.

The balanced budget amendment is one instrument for doing that. It should not be delayed, or stalled, or stonewalled. But if it is, we can take the time, days or weeks, with the Nation watching and listening.

After all, it took us decades to get this far. And with all due respect to my colleagues who oppose the balanced budget amendment, I say, in the words of the old song, ''we ain't gonna let nobody turn us round.''

I feel sure I will be back in the Chamber before we finish on this amendment to speak again. But we have a great opportunity here. The amendment is the responsible thing to do. There may be efforts to distract us, and there are of course legitimate concerns as well, but let us keep our eyes on the ball. If you are for the balanced budget amendment, you should vote for the balanced budget amendment, rather than finding excuses to oppose. There will not be any place to hide this time. The American people will know who is for it and who is against it when we take the vote in a few days.

Mr. President, in view of the fact there are others on the floor waiting to speak, I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I thank the Chair.

(The remarks of Mr. JOHNSTON pertaining to the introduction of S. 333 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. KYL). The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. I thank the Chair. I thank the Senator from Mississippi for his graciousness. I guess because we are on the same side on this particular issue it makes it a little easier, and it is a delight to have a chance to work in a bipartisan fashion on behalf of the balanced budget amendment.

THE CONDITION OF AMERICA'S SCHOOLS

Ms. MOSELEY-BRAUN. Mr. President, I rise today to present the results of a very important study that has been conducted by the General Accounting Office on the condition of America's schools and to highlight the merits of the Education Infrastructure Act.

Mr. President, this report by the GAO, entitled ''School Facilities—Condition of America's Schools,'' was issued yesterday, and I ask unanimous consent that the entire report by the GAO be printed in the RECORD.

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

[From the U.S. General Accounting Office]

SCHOOL FACILITIES—CONDITION OF AMERICA'S SCHOOLS

February 1, 1995.

Hon. Carol Moseley-Braun,
Hon. Edward M. Kennedy,
Hon. Claiborne Pell,
Hon. Paul Simon,
Hon. Paul Wellstone,
U.S. Senate.

The nation has invested hundreds of billions of dollars in school infrastructure to create an environment where children can be properly educated and prepared for the future. Almost exclusively a state and local responsibility, this infrastructure requires maintenance and capital investment. However, public concern is growing that while laws require children to attend school, some school buildings may be unsafe or even harmful to children's health. Recently, for example, a federal judge would not allow the schools in our nation's capital to open on time until thousands of life-threatening fire code violations were corrected. Similarly, noncompliance with asbestos requirements kept over 1000 New York City schools closed for the first 11 days of the 1993 school year. Although such situations may be well-publicized, little information exists documenting the extent to which the nation's schools may lack the appropriate facilities to educate their students.

Widely quoted studies[1] conducted in recent years report that school facilities are in poor condition. While these studies documented some problems and provided much anecdotal information, they had different methodological problems limiting their usefulness. Further, the Department of Education has not assessed the condition of the nation's school facilities since 1965. Accordingly, you requested that we conduct a study that could be used as a basis for determining the condition of the nation's school facilities.

In response to your request and subsequent discussions with your office, this report presents national information on (1) the amount of funding that the nation's public elementary and secondary schools report needing to improve inadequate facilities and (2) the overall physical condition and prevalence of schools that need major repairs. Another report is forthcoming shortly that will report the location of and other demographic analyses for schools that need major repairs. These reports are the first in a series responding to your request.[2]

RESULTS IN BRIEF

Based on estimates by school officials in a national sample of schools, we project that the nation's schools need about $112 billion[3] to repair or upgrade America's multibillion[4] dollar investment in facilities to good overall condition.[5] Of this, $11 billion (10 percent) is needed over the next 3 years to comply with federal mandates that require schools to make all programs accessible to all students and to remove or correct hazardous substances such as asbestos, lead in water or paint, materials in underground storage tanks (UST), radon, or meet other requirements.

About two-thirds of America's schools reported that all buildings were in at least overall adequate condition, at most needing only some preventive maintenance or corrective repair. However, about 14 million students attend the remaining one-third of schools that reported needing extensive repair or replacement of one or more buildings.[6] These schools are distributed nationwide. Also, problems with major building features, such as plumbing, are widespread even among those schools reported in at least adequate condition. Almost 60 percent of America's schools reported at least one major building feature in disrepair, needing to be extensively repaired, overhauled, or replaced. Most of these schools had multiple problems. In addition, about half reported at least one unsatisfactory environmental condition in their schools, such as poor ventilation, heating or lighting problems, or poor physical security. Most of these schools also had multiple unsatisfactory environmental conditions. Some district officials we spoke to told us that a major factor in the declining physical condition of the nation's schools has been decisions by school districts to defer vital maintenance and repair expenditures from year to year due to lack of funds.

BACKGROUND

Elementary and secondary education, the nation's largest public enterprise, is conducted in over 80,000 schools in about 15,000 districts. America's public schools serve over 42 million students. About 70 percent of schools serve 27 million elementary students; 24 percent serve 13.8 million secondary students; and 6 percent serve 1.2 million students in combined elementary and secondary and other schools.

America's traditional one-room school houses have been replaced by larger facilities that may have more than one building. Comprising classroom, administrative, and other areas like gymnasiums and auditoriums, a school may have an original building, any number of permanent additions to that building, and a variety of temporary buildings—each constructed at different times. Buildings that have been well maintained and renovated at periodic intervals have a useful life equivalent to a new building.

A number of state courts as well as the Congress have recognized that a high-quality learning environment is essential to educating the nation's children. Crucial to establishing that learning environment is that children attend school in decent facilities. ''Decent facilities'' was specifically defined by one court as those that are ''* * * structurally safe, contain fire safety measures, sufficient exits, an adequate and safe water supply, an adequate sewage disposal system, sufficient and sanitary toilet facilities and plumbing fixtures, adequate storage, adequate light, be in good repair and attractively painted as well as contain acoustics for noise control. . . .''[7] More recently, the Congress passed the Education Infrastructure Act of 1984,[8] in which it stated that ''improving the quality of public elementary and secondary schools will help our Nation meet the National Education Goals.''[9] Despite these efforts, studies and media reports on school facilities since 1965 indicate that many public elementary and secondary schools are in substandard condition and need major repairs due to leaking roofs, plumbing problems, inadequate heating systems, or other system failures.

Although localities generally finance construction and repair, with states playing a variety of roles,[10] federal programs have monies to help localities offset the impact of federal activities, such as Impact Aid,[11] improving accessibility for the disabled, and managing hazardous materials. However, these programs do not totally offset all costs. For example, prior GAO work found that federal assistance provided for asbestos management under the Asbestos School Hazard Abatement Act of 1984 did not meet the needs of all affected schools. From 1988 through 1991, the Environmental Protection Agency (EPA) received 1,746 qualified applications totaling $599 million but only awarded $157 million to 586 school districts it considered to have the worst asbestos problems. EPA was aware of the shortfall in federal assistance but believed that state and local governments should bear these costs.[12]

Because of the perception that federal programs—as well as current state and local financing mechanisms—did not begin to address the serious facilities needs of many of America's schools, the Congress passed the Education Infrastructure Act of 1994. The Congress then appropriated $100 million for grants to schools for repair, renovation, alteration, or construction.

SCOPE AND METHODOLOGY

To determine the amount of funding needed to improve inadequate facilities and the overall physical condition and prevalence of schools that need major repairs, we surveyed a national sample of schools and augmented

[1] Footnotes at end of article.

the survey with visits to selected school districts. We used various experts to advise us on the design and analysis of this project. (See app. III for a list of advisers.)

We sent the survey to a nationally representative stratified random sample of about 10,000 schools in over 5,000 school districts. The sample was designed for the Department of Education's 1994 Schools and Staffing Survey (SASS), which is sponsored by the National Center for Educational Statistics.

We asked about (1) the physical condition of buildings and major building features, such as roofs; framing, floors, and foundations; exterior walls and interior finishes; plumbing; heating, ventilation, and air conditioning (HVAC); and electric power; (2) the status of environmental conditions, such as lighting, heating, and ventilation; (3) the amount districts and schools had spent in the last 3 years or plan to spend in the next 3 years due to federal mandates that require managing or correcting hazardous materials problems and providing access to all programs for all students; and (4) an estimate of the total cost of needed repairs, renovations, and modernizations to put all buildings in good overall condition. (See app. IV for a copy of the questionnaire.)

We directed the survey to those officials who are most knowledgeable about facilities—such as facilities directors and other central office administrators of the districts that housed our sampled school buildings. Our analyses are based on responses from 78 percent of the schools sampled. Analyses of non-respondent characteristics showed them to be similar to respondents. Findings from the survey have been statistically adjusted (weighted) to produce nationally representative estimates. All of the data are self-reported, and we did not independently verify their accuracy. See the forthcoming report on location and demographic analyses of schools in need of major repair for a detailed description of our data collection methods and analysis techniques, confidence intervals and the like.

In addition, we visited 41 schools in 10 selected school districts varying in location, size, and minority composition. During these visits, we observed facility conditions and interviewed district and local school officials to obtain information on facilities assessment, maintenance programs, resources, and barriers encountered in reaching facility goals. (See app. I for profiles on the districts visited.)

We conducted this study from April 1994 to December 1994 in accordance with generally accepted government auditing standards.

PRINCIPAL FINDINGS

Schools Report Needing Billions to Improve Facilities

On the basis of our survey results, we estimate that the nation's schools need $112 billion to complete all repairs, renovations, and modernizations required to restore facilities to good overall condition and to comply with federal mandates. (See fig. 1.) This amount includes $65 billion—about $2.8 million per school—needed by one-third of schools for which one or more entire building needs major repairs or replacement. Another 40 percent of schools (those in adequate or better condition) reported needing $36 billion—$1.2 million per school—to repair or replace one or more building features,[13] such as the plumbing or roof or to make other corrective repairs.

[Figure 1 not reproduced in the RECORD.]

Almost two-thirds of the schools reported needing $11 billion—an average of $.2 million per school—to comply with Federal mandates over the next 3 years. Of this amount, about $6 billion (55 percent) is needed by schools to make programs accessible to all students while about $5 billion (45 percent) is needed to correct or remove hazardous substances such as asbestos, lead in water or paint, materials contained in USTs, radon, or meet other requirements.

This $11 billion is in addition to the $3.8 billion reported spent by three-quarters of all schools in the last 3 years to comply with Federal mandates. Of the money schools reported that they spent to comply with Federal mandates, $2.3 billion (60 percent) went to correct or remove hazardous substances—primarily asbestos—while $1.5 billion (40 percent) to make all programs accessible to all students.

[Figure 2 not reproduced in the RECORD.]

District officials we spoke with reported that they must also comply with many State and local mandates. For example, one urban district reported how Federal, State, and local regulations govern many of the same areas such as hazardous materials management and some aspects of indoor air quality. In addition, officials cited numerous State health and sanitation codes, State safety inspections for building features, as well as city zoning ordinances, local building codes, and historic preservation regulations. By 1992, the enormity of the requirements as well as decades of capital needs underfunding have resulted in only the 2 newest of their 123 schools complying with all current codes.

The district further described how these regulations and the accompanying cost could apply to the installation of air conditioning. For example, air conditioning could be installed in a building for $500,000. However, this may also require an additional $100,000 in fire alarm/smoke detection and emergency lighting systems as well as $250,000 in architectural modifications for code compliance. Additionally, the location of outside chillers may be regulated by zoning and historic preservation ordinances.

In our visits to selected districts, officials from major urban areas reported needing billions to put their schools into good overall condition. (See table 1.)

TABLE 1.—MAJOR URBAN SCHOOL DISTRICTS REPORT NEEDING BILLIONS TO BRING SCHOOLS INTO GOOD OVERALL CONDITION

[Dollars in billions]

Urban school district	Amount needed
New York City	$7.8
Chicago	2.9
Washington, DC	0.5
New Orleans	0.5

Two-Thirds of Schools Adequate but Millions of Students Must Attend Other One-Third

School officials reported that two-thirds of the Nation's schools are in adequate (or better) condition, at most needing only some preventive maintenance or corrective repair. However, about 14 million students must attend the remaining one-third (25,000 schools), in which at least one building is in need of extensive repair or replacement. Even more students, 28 million, attend schools nationwide that need one or more building feature extensively repaired, overhauled, or replaced or that contain an environmentally unsatisfactory condition,[14] such as poor ventilation. (See tables 2 and 3.) These schools are distributed nationwide.

TABLE 2.—MILLIONS OF STUDENTS ATTEND SCHOOLS WITH LESS-THAN-ADEQUATE PHYSICAL CONDITIONS

Building feature	Number of schools	Estimate of students affected
Roofs	21,100	11,916,000
Framing, floors, foundations	13,900	7,247,000

TABLE 2.—MILLIONS OF STUDENTS ATTEND SCHOOLS WITH LESS-THAN-ADEQUATE PHYSICAL CONDITIONS—Continued

Building feature	Number of schools	Estimate of students affected
Exterior walls, finishes, windows, doors	20,500	11,524,000
Interior finishes, trims	18,600	10,408,000
Plumbing	23,100	12,254,000
Heating, ventilation, air conditioning	28,100	15,456,000
Electrical power	20,500	11,033,000
Electrical lighting	19,500	10,837,000
Life safety codes	14,500	7,630,000

Note. See appendix IV for survey question.

Ranges for building or building feature condition were excellent, good, adequate, fair, poor, or replace. A building or building feature was considered in less-than-adequate condition if fair, poor, or replace was indicated.

TABLE 3.—MILLIONS OF STUDENTS ATTEND SCHOOLS WITH UNSATISFACTORY ENVIRONMENTAL CONDITIONS

Environmental condition	Number of schools	Number of students affected
Lighting	12,200	6,682,000
Heating	15,000	7,888,000
Ventilation	21,100	11,559,000
Indoor air quality	15,000	8,353,000
Acoustics for noise control	21,900	11,044,000
Physical security	18,900	10,638,000

Note. See appendix IV for survey question.

Physical Condition

Specifically, about one-third of both elementary and secondary schools reported at least one entire building—original, addition, or temporary—in need of extensive repairs or replacement. About 60 percent (including some schools in adequate condition) reported that at least one building feature needed extensive repair, overhauling, or replacement; and three-quarters of those schools needed multiple features repaired. Features most frequently reported in need of such repairs were HVAC; plumbling; roofs; exterior walls, finishes, windows, and doors; electrical power; electrical lighting; and interior finishes and trims. (See fig. 4 and pictures in app. II.) Further, while 41 percent of all schools reported unsatisfactory energy efficiency, 73 percent of those schools with exterior walls, windows, and doors and 64 percent of those with roofs in need of major repair reported unsatisfactory energy efficiency. These unrepaired features not only reduce energy efficiency but may also have an adverse environmental effect on students.

As one Chicago elementary school principal told us, ''Heat escapes through holes in the roof; the windows leak (the ones that are not boarded up) and let in cold air in the winter so that children must wear coats to class.''

In New Orleans, the damage from Formosan termites has deteriorated the structure of many schools. In one elementary school, they even ate the books on the library shelves as well as the shelves themselves. (See app. II.) This, in combination with a leaking roof and rusted window wall, caused so much damage that a large portion of the 30-year-old school has been condemned. The whole school is projected to be closed in 1 year.

At a Montgomery County, Alabama, elementary school, a ceiling weakened by leaking water collapsed 40 minutes after the children left for the day.

Water damage from an old (original) boiler steam heating system at a 60-year-old junior high school in Washington, D.C., has caused such wall deterioration that an entire wing has been condemned and locked off from use. Steam damage is also causing lead-based wall paint to peel.

Raw sewage backs up on the front lawn of a Montgomery County, Alabama, junior high due to defective plumbing.

A New York City high school built around the turn of the century has served as a stable, fire house, factory, and office building. The school is overcrowded with 580 students, far exceeding the building's 400 student capacity. The building has little ventilation (no vents or blowers), despite many inside classrooms, and the windows cannot be opened, which makes the school unbearably hot in the summer. In the winter, heating depends on a fireman's stoking the coal furnace by hand.

In Ramona, California, where overcrowding is considered a problem, one elementary school is comprised entirely of portable buildings. It had neither a cafeteria nor auditorium and used a single relocatable room as a library, computer lab, music room, and art room.

Last year, during a windstorm in Raymond, Washington, the original windows of an elementary school built in 1925 were blown out, leaving shards of glass stuck in the floor. The children happened to be at the other end of the room. This wooden school is considered a fire hazard, and although hallways and staircases can act as chimneys for smoke and fire, there is only one external exit on the second floor.

In rural Grandview, Washington, overcrowded facilities are a problem. At one middle school, the original building was meant to house 450 students. Two additions and three portables have been added to accommodate 700 students. The school has seven staggered lunch periods. The portables have no lockers nor bathrooms and are cold in the winter and hot in the spring/summer.

In a high school in Chicago, the classroom floors are in terrible condition. Not only are floors buckling, so much title is loose that students cannot walk in all parts of the school. The stairs are in poor condition and have been cited for safety violations. An outside door has been chained for 3 years to prevent students from falling on broken outside steps. Peeling paint has been cited as a fire hazard. Heating problems result in some rooms having no heat while other rooms are too warm. Leaks in the science lab caused by plumbing problems prevent the classes from doing experiments. Guards patrol the outside doors, and all students and visitors must walk through metal detectors before entering the school.

During our school visits, we found wide disparities between schools in the best or even average condition and schools in the worst condition, and these schools were sometimes in the same district.

Environmental Conditions

About 50 percent of the schools reported at least one unsatisfactory environmental condition; while 33 percent reported multiple unsatisfactory conditions. Of those, half reported four to six unsatisfactory conditions. Those conditions most frequently reported to be unsatisfactory were acoustics for noise control, ventilation, and physical security. (See fig. 5.) Additionally, three-quarters of schools responding had already spent funds during the last 3 years on requirements to remove or correct hazardous substances such as asbestos (57 percent), lead in water or paint (25 percent), materials in USTs such as fuel oil (17 percent), radon (18 percent), or other requirements (9 percent). Still two-thirds must spend funds in the next 3 years to comply with these same requirements—asbestos (45 percent), lead (18 percent), UST (12 percent), radon (12 percent), or other requirements (8 percent).

We saw numerous examples of unsatisfactory environmental conditions during our school visits:

In the Pomona, California, school district, the student body has increased 37 percent over the last 10 years. Some schools must have five staggered lunch periods to accommodate all students. As a result of overcrowding, in one elementary school, students are housed in temporary buildings installed in 1948 that are unattractive, termite ridden, dark, and underequipped with electrical outlets. The temporary buildings get very hot as well as very cold at times because of poor insulation.

A Raymond, Washington, high school—a three-story structure with walls of unreinforced concrete with roof and floor not adequately secured to the walls that may not withstand earthquakes—contains steam pipes that are not only extremely noisy but provide too little or too much heat from room to room.

In Richmond, Virginia, schools in the district close early in September and May because the heat combined with poor ventilation and no air conditioning creates health problems for students and teachers, especially those with asthma.

A Chicago elementary school, built in 1893 and not painted for many years, had walls and ceilings with chipping and peeling lead-based paint, contains asbestos and has several boarded-up windows. Some rooms have inadequate lighting due to antiquated lighting fixtures that are no longer manufactured, so bulbs could not be replaced when burned out. One section of the school has been condemned due to structural problems. However, the auditorium and gym in this area are still used. The school was scheduled for closure in 1972 but remained open due to community opposition to the closure with promises of renovation by the district.

Insufficient Funds Contribute to Declining Physical Conditions

District officials we spoke to attributed the declining physical condition of America's schools primarily to insufficient funds, resulting in decisions to defer maintenance and repair[15] expenditures from year to year. This has a domino effect. Deferred maintenance speeds up the deterioration of buildings, and costs escalate accordingly, further eroding the nation's multibillion dollar investment in school facilities. For example, in many schools we visited, unrepaired leaking roofs caused wall and floor damage that now must also be repaired. New York school officials told us that, while a typical roof repair is $600, a full roof replacement costs $300,000, and painting and plastering 10 rooms on a top floor that has been damaged by water infiltration costs $67,500 plus $4,500 to replace damaged floor tiles. In other words, for every $1 not invested, the system falls another $620 behind. In addition, unrepaired roofs cause energy costs to increase as heat escapes through holes, further depleting already limited funds. Further, due to lack of routine maintenance in the Chicago district, many schools have not been painted since they were painted 20 years ago with lead-based paint.

In an elementary school in New York City, repair problems had not been addressed since the school was built 20 years ago. Problems that could have been addressed relatively inexpensively years ago have now caused major problems such as sewage leaking into the first grade classrooms, a leaking roof that is structurally unsound, and crumbling walls.

Similarly, in Chicago, we visited an elementary school whose roof, the principal told us, had needed replacement for 20 years. Because it had only been superficially patched, rather than replaced, the persistent water damage had caused floors to buckle and plaster on the walls and ceilings to crumble. It had also flooded parts of the electric wiring system. One teacher in this school would not turn on her lights during rainstorms for fear of electrical shock; in another classroom the public address system had been rendered unusable. Buckets had to be placed on the top floor of the school to catch the rain.

Some district officials we spoke with reported that they had difficulty raising money for needed repairs and renovation due to an anti-tax sentiment among voters resulting in the failure of bond issues as well as passage of property tax limitations. About one in three districts reported that they have had an average of two bond issues fail in the past 10 years. Further, school officials told us that often bond proceeds are far less than needed for repairs. For example, in Pomona, California, a $62.5 million bond issue was submitted to the voters after a survey indicated that the $200 million needed for repairs would be rejected. At the time of our survey, 6 percent of districts had a bond issue before the electorate. However, as one survey respondent commented, ''the current public attitudes about the economy and education are generally so negative that passing a bond referendum is a fantasy.'' Other states have reduced school funding by passing property tax limitations. One survey respondent reported, ''The state's contribution to local schools has dropped by 40 percent over the last few years * * *.'' According to another survey respondent, ''This is a 1913 building which many of the taxpaying citizens feel was good enough for them * * * it is looked at as a monument in the community. Unless some form of outside funding is arranged, the citizens may never volunteer to replace this building since it will require raising their taxes.''

Further, districts reported a lack of control over some spending priorities as they must fund a large portion of federal mandates for managing or correcting hazardous materials as well as making all programs accessible to all students. A recurring theme in comments from survey respondents was that ''Unfunded federal and state mandates are one of the prime causes of lack of funds for replacing worn-out heating and cooling equipment, roofs, etc. * * *'' Another survey respondent stated, ''The ADA requirements were a major reason we had to replace two older schools. These costs, when added to other costs for renovations and modifications, resulted in overall costs for repairs, which exceeded the costs for new facilities.'' On the other hand, Chicago school officials told us that due to limited funds and the cost of installing one elevator being $150,000, very few schools are able to provide program access to all students.

In looking at the uses of bond proceeds in the districts, the average amount of the most recently passed bond issue was $7 million. While about 3 percent was provided for federal mandates, 54 percent was provided for school construction and 38 percent for repairing, renovating, and modernizing schools. The remaining 5 percent was spent for purchases of computers and telecommunications equipment.

Districts also said that they must sometimes divert funds initially planned for facilities maintenance and repair to purchase additional facilities due to overcrowding. This has resulted from both demographic and mandated changes. For example, additional funds were required for construction and purchase of portables due to large immigrant influxes as well as population shifts in districts or climbing enrollment due to overall population increases. Further, some mandated school programs, such as special education, require additional space for low pupil-teacher ratios.

One survey respondent described the competing demands on limited funds as follows:

''Our school facilities are not energy efficient or wired for modern technology. Our floor tile is worn out and the furniture is in poor shape. Our taxpayers don't want to put any more in schools. Our teachers want better pay. Our students and parents want more programs and technology. HELP!!!''

Building Age—By Itself—Is Not Significant

While some studies cite building age as a major factor contributing to deteriorating conditions, older buildings often have a more sound infrastructure than newer buildings. Buildings built in the early years of this century—or before—frequently were built for a life span of 50 to 100 years while more modern buildings, particularly those built after 1970, were designed to have a life span of only 20 to 30 years. A study of English school facilities found that the schools built during the 1960s and 1970s were built quickly and cheaply and have caused continuing maintenance problems.[16] As one survey respondent commented, ''the buildings in this district are approximately 20 years old, but the exterior siding was inferior from the beginning * * * it has deteriorated and ruptured extensively. * * *'' A principal in Chicago stated about her 1970s building, ''our most pressing problem is that the school is crumbling down around us * * *. From the beginning, this building has had serious roof problems. Water leaks throughout the building from the roof and from the walls. Pools of water collect in the floors of the classrooms. One wall has buckled and is held in place with a steel stake. The windows leak and let cold air in * * *.'' According to some school officials, the misperception about the age factor has been reinforced because older buildings are sometimes not maintained but allowed to deteriorate until replaced.

Three schools we visited in Chicago presented a good example of the difficulty of using age to define condition. All three were built between 1926 and 1930 and had the same design and basic structure. Today, their condition could not be more different. One school had been allowed to deteriorate (had received no renovation since the 1970s) until it reached a point where local school officials classified it as among those schools in the worst physical condition. The second school had received some recent renovation because of community complaints about its condition and was classified as a typical school for the school district. The third school had been well maintained throughout the years, and now school officials classified it as a school in the best physical condition. (See pictures contrasting the three schools in fig. 6.)

[Figure 6 not reproduced in Record.]

CONCLUSIONS

Two-thirds of America's schools report that they are in adequate (or better) overall condition. Still, many of these schools need to repair or replace one or more building feature, manage or correct hazardous materials, or make all programs accessible to all students. Other schools have more serious problems. About 14 million students are required to attend the remaining one-third of schools that have one or more entire buildings in less-than-adequate condition, needing extensive repair or replacement. These schools are distributed nationwide.

Our survey results indicate that to complete all repairs, renovations, or modernizations needed to put school buildings into good overall condition and comply with federal mandates would require a projected investment of $112 billion. Continuing to delay maintenance and repairs will defer some of these costs but will also lead to the need for greater expenditures as conditions deteriorate, further eroding the nation's multibillion dollar investment in school infrastructure. In addition, if maintenance continues to be deferred, a large proportion of schools that are in only adequate condition and need preventive maintenance or corrective repair will soon deteriorate to less-than-adequate condition.

As one survey respondent observed, ''It is very difficult to get local communities to accept this burden (facilities construction/renovation). Our district, one of the wealthiest in the state, barely passed a bare bones budget to renovate. It must be a national crisis.''

AGENCY COMMENTS

We spoke with Department of Education officials at the National Center for Educational Statistics who reviewed a draft of this report and found the report well done and generally approved of the approach. In addition, staff from the Office of the Undersecretary provided us with technical comments that we incorporated into our report. They did not comment, however, on our methodology, reserving judgment for the detailed technical appendix in our forthcoming report.

Copies of this report are also being sent to appropriate House and Senate committees and all members, the Secretary of Education, and other interested parties.

If you have any questions about this report, please contact Eleanor L. Johnson, Assistant Director, who may be reached at (202) 512–7209. A list of major contributors to this report can be found in appendix VII.

Sincerely yours,

LINDA G. MORRA,
Director, Education and Employment Issues.

APPENDIX I

DISTRICT PROFILES

We visited 41 schools in 10 selected school districts that varied by location, size, and ethnic composition. During these visits, we observed facility conditions and interviewed district and local school officials to get information on facilities assessment, maintenance programs, resources, and barriers encountered in reaching facilities goals. We asked officials to show us examples of ''best,'' ''typical,'' and ''worst'' schools and verified the reliability of these designations with others. In some small districts, we visited all schools.

CHICAGO, ILLINOIS

Overview

TABLE I.1.—CHICAGO, ILLINOIS

Enrollment	400,000.
Number of schools	553.
Racial composition	56 percent black. 30 percent Hispanic. 14 percent other.
Students on free or reduced lunch	67 percent.
Type	Urban.
Minimum estimated to make all repairs [17].	2.9 billion.

Chicago is a large urban district whose school officials rated their school facilities, overall, as in fair to poor condition. Widespread disparities exist, however, between schools in the best and worst condition. About 15 percent of the schools were built before 1900, and over half are more than 50 years old. Slightly more than 25 percent were built during the fifties and sixties to handle the baby boom, and 20 percent were built during the last 25 years. However, a number of the newer structures are temporary buildings or ''demountables'' (large sections of prefabricated frames put together on a cement slab). These buildings now show major structural damage, and the seams of the buildings are splitting apart. Permanent buildings also have structural damage. For example, we visited two schools that had chained exit doors to prevent students from either being hit by debris from a cracking exterior brick wall—in a ''typical'' Chicago school—or falling on collapsing front steps—in a ''worst'' school.

Schools in the worst condition need new exterior building envelopes (roofs, tuck pointing, windows, and doors), have asbestos or lead-based paint, suffer ceiling and floor problems from leaky roofs, and need to replace outdated electrical and plumbing systems. Schools in the best condition tend to be newer, need few or no repairs, have a more flexible space design, contain electrical systems capable of housing new technology, have air conditioning, and offer brightly colored walls and low ceilings. However, condition does not depend on age alone; three schools we visited typifying best, worst, and typical were all over 60 years old.

Officials report that their biggest facility issues are deferred maintenance and overcrowding. They say that a shortage of funds, caused by a lack of taxpayer support, hinders the district from either upgrading or maintaining its facilities. About 30 to 40 percent of needed repairs have been deferred from year to year for decades with priority given to repairs that ensure student safety. Additionally, some federal mandates—particularly lead and asbestos removal abatement programs—have caused major expenditures as most schools built between 1920 and 1979 contain asbestos, and all schools were painted with lead paint before 1980.

Overcrowding began in the seventies with a great increase in the Hispanic population. However, in some instances, individual schools may be overcrowded, while neighboring schools remain underenrolled. One official told us that this is due in part to the problems caused by gang ''turf'' and the threat of extreme violence or even death to individuals who wander into ''enemy'' territory. School officials are reluctant to reassign students if the receiving schools are in territory controlled by a different gang than that of the overcrowded school the children presently attend.

Facilities Financing

Officials estimate that they need $2.9 billion to put schools in good overall condition. While the primary source of school funding is local property taxes, smaller amounts of state and federal funds are also used. Although the 1994 school facilities budget is $270 million (10 percent of the total education budget), only about $50 million is used for maintenance and repair. To obtain funds for building and renovating, the district relies on bonds, we were told, as politicians hesitate to ask anti-tax voters for even a minimal increase in taxes.

GRANDVIEW, WASHINGTON

Overview

TABLE I.2.—GRANDVIEW, WASHINGTON

Enrollment	2,800.
Number of schools	5.
Racial composition	67 percent Hispanic. 32 percent white. 1 percent other.
Students on free or reduced lunch	65 percent.
Type	Small town, rural.
Minimum estimated to make all repairs.	$24.5 million.

This small agricultural town in rural Washington has five schools. While the high school, built in 1978, is in excellent condition, the other four schools, built between 1936 and 1957, need to be totally renovated or replaced over the next 10–20 years. In addition, a student population increasing annually at about 4 percent since 1986 has resulted in overcrowding. Although Grandview's middle school was built to house 475 students, current enrollment stands at about

700. One elementary school designed for 375 students now has 464. Another crowded elementary school converted the gymnasium into two classrooms. The district currently has 14 portable classrooms in use and anticipates needing 4 more in the next 3 years.

Facilities Financing

Grandview schools have an annual budget of $13.5 million, about 2 percent of which goes for maintenance. They receive funding from local tax levies and from the state and general apportionment of about $4,000 per student. They are also eligible for state equalization funding contingent on passing their levy. New construction and renovation are funded by bond issues and state funding assistance contingent on passing the bond issue. An $11 million bond issue to build a new middle school to alleviate crowding failed in February 1994 and again in the fall of 1994.

Funding problems include public resistance to raising taxes and decreased state assistance due to a reduction in the timber sales on the public lands that support school construction funding.

MONTGOMERY COUNTY, ALABAMA

Overview

TABLE I.3.—MONTGOMERY COUNTY, ALABAMA

Enrollment	35,000.
Number of schools	54.
Racial composition	45 percent black. 55 percent white.
Students on free or reduced lunch	58 percent.
Type	Urban.
Minimum estimated to make all repairs.	$150 million.

Many of Montgomery County school facilities are old but are generally in fair condition. However, approximately 10 percent of the schools need to be replaced. In the last 20 years, about 8 schools were built. The oldest building is a portion of an elementary school built in 1904.

Schools built during the early 1900's are not air conditioned and need new roofs. At one elementary school we visited, a ceiling recently collapsed just 40 minutes after the children left for the day. Some schools have had students in ''temporary'' buildings for years. In addition, many repairs and renovations are needed to maintain schools, accommodate overcrowding and comply with federal mandates.

Overcrowding problems have resulted in the use of 284 portable buildings to house students. In the 1980's, Montgomery County's student population increased, creating the need for new elementary populations at some schools through voluntary student movement, through a minority to majority transfer process. This process allowed minority students to attend any school in the county with a more than 50-percent majority of white students. Primarily, we were told, minority students chose to attend schools on the east side of town because the school facilities were better equipped and nicer. To provide adequate instructional space for the influx of children at the east side schools, portable rooms were added.

Facilities Financing

Lack of money prohibits the district from making needed facilities repairs. The operations and maintenance budget has dropped 10 percent in the past 3 to 4 years. The current facilities budget is $1 million of a $6 million total education budget. The district has no capital improvement budget. On June 28, 1994, voters defeated a local tax referendum for bond money the county had planned to use to remove all portable buildings, make all needed repairs and renovations and build new schools located so that children from the west side of town would not have to travel so far for better school accommodations.

NEW ORLEANS, LOUISIANA

Overview

TABLE I.4.—NEW ORLEANS, LOUISIANA

Enrollment	85,000.
Number of schools	124.
Racial composition	90 percent black. 10 percent other.
Students on free or reduced lunch	85 percent.
Type	Urban.
Minimum estimated to make all repairs	$500 million.

New Orleans' public schools are rotting away. Suffering from years of neglect due to lack of funds for repair and maintenance, New Orleans students attend schools suffering from hundreds of millions of dollars' worth of uncorrected water and termite damage. Fire code violations are so numerous that school officials told us, ''We don't count them—we weigh them.''

Most of the buildings have no air conditioning, though the average morning relative humidity in New Orleans is 87 percent. One high school recently had an electrical fire that started in the 80-year-old timbers in the roof. No one was hurt but the students were sent to other buildings for the rest of the year. An elementary school, built in 1964, was condemned and closed in 1994 due to water and termite damage.

Facilities Financing

New Orleans uses local property taxes and federal asbestos loans to upgrade its buildings. The district has submitted five bond issues to the voters in the last 20 years, for a total of $175 million, but only two of the bond issues have passed. The school facilities annual budget in 1994 is $6 million or 2 percent of the total education budget. This has decreased in the past 10 years from $9 million (4 percent of the education budget).

NEW YORK, NEW YORK

Overview

TABLE I.5.—NEW YORK, NEW YORK

Enrollment	700,000.
Number of schools	1,229.
Racial composition	38 percent black. 36 percent Hispanic. 19 percent white. 7 percent Asian.
Students on free or reduced lunch	64 percent.
Type	Urban.
Minimum estimated to make all repairs	$7.8 billion.

New York has extremely diverse school facilities—while conditions are generally bad, some schools are models for 21st century learning. The ''best'' school we saw—a $151 million state-of-the-art science high school—was only blocks away from an example of the ''worst''—another high school in a 100-year-old building that had served as a stable, fire house, factory, and office building. This high school's elevators do not work, its interior classrooms have no windows, it has little ventilation and no air conditioning, and its heating depends on a fireman's stoking the coal furnace by hand.

Overcrowding and generally poor condition of the school buildings—many over 100-years-old and in need of major renovation and repair—are New York's main facilities problems. Since the fiscal crisis in the 1970s, maintenance and repair of the city's school buildings have been largely neglected. Twenty years of neglect compound problems that could have been corrected much more cheaply had they been corrected earlier. As the city seeks the funds for repairing leaking roofs, plumbing problems that cause sewage to seep into elementary school classrooms, and ceilings that have caved in, its school enrollment is dramatically increasing. After losing more than 10 percent of its population in the sixties, a vast migration of non-English speaking residents in the last 3 years has resulted in overcrowding in 50 percent of New York's schools. One school is operating at over 250 percent of capacity. Because classrooms are unavailable while under repair, in some cases improvements are postponed.

Facilities Financing

The New York City schools' maintenance, repair, and capital improvement budget is approved annually by the city council. While the state provides some loan forgiveness, the city is largely responsible for all of the costs.

Each school is allocated a maintenance and repair budget based solely on square footage. As a result, schools—even new schools—frequently cannot repair problems as they arise, which often leads to costly repairs in the future. In 1988, the estimated cost of upgrading, modernizing, and expanding the school system by the year 2000 was over $17 billion. The total capital backlog at that time was over $5 billion. The capital plan for fiscal year 1990 through fiscal year 1994 was funded at $4.3 billion: barely 20 percent of the amount requested.

POMONA, CALIFORNIA

Overview

TABLE I.6.—POMONA, CALIFORNIA

Enrollment	29,000.
Number of schools	35.
Racial composition	67 percent Hispanic. 13 percent black. 12 percent white. 8 percent Asian-Pacific.
Students on free or reduced lunch	70 percent.
Type	Suburban.
Minimum estimated to make all repairs.	$200 million.

Although district officials generally describe their school facilities overall as ''adequate to fair,'' some individual schools are excellent while others have severe problems. The oldest school was built in 1932. The worst schools were built in the mid-1950s to early 1960s and face many repair problems—poor plumbing, ventilation, lighting, leaking roofs, and crumbling walls. In contrast, one new school that opened last fall is state-of-the art. Only three schools have been built in the last 20 years.

Like many school districts in California, Pomona's biggest facilities issue is overcrowding. Because the student body has increased 37 percent in the last 10 years, the district relies on what school officials call ''God-awful'' portables—bungalows that are ugly, not air conditioned, termite-ridden, dark, and have too few electrical outlets. The portables generally provide sufficient classroom space but leave schools suffering from a severe lack of common-use areas and space for student movement. For example, some schools have to schedule five lunch periods to handle overcrowded campuses.

Facilities financing

In 1991 the district passed a $62.5 million bond measure—significantly short of the $200 million it says it needs to put its schools in good overall condition. Officials attribute their facilities' financial problems to state cutbacks, the passage of Proposition 13 in 1979, which greatly reduced local tax revenues, and unfunded federal mandates that drain the district's budget. As a result, the district must function without enough facilities staff and continue to defer maintenance and repair while using temporary ''band-aid'' measures. However, the passage of Pomona's 1991 bond measure and two 1992 state bond measures increased the district's capital improvement budget to $14 million or about 16

percent of the district's $85 million education budget. Pomona's maintenance and repair budget is usually about 2 percent of the education budget.

RAMONA, CALIFORNIA

Overview

TABLE I.7.—RAMONA, CALIFORNIA

Enrollment	6,500.
Number of schools	9.
Racial composition	78 percent white. 18 percent Hispanic. 4 percent other.
Students on free or reduced lunch	35 percent.
Type	Small town, rural.
Minimum estimated to make all repairs	$4 million.

Ramona is a small but growing rural community in central San Diego County. Four of its nine schools are more than 25 years old; its oldest was built over 50 years ago. Although Ramona's oldest schools tend to be well constructed, they suffer from seriously deteriorating wiring and plumbing and inadequate or nonexistent heating, ventilation, air conditioning, and communications systems. The school district also suffers from the lack of an adequate, stable funding source that would allow it to modernize and expand its facilities. Consequently, most of Ramona's schools are underbuilt and must rely on portables for overcrowding. One elementary school we visited was comprised of only portables, with no cafeteria nor auditorium. One portable served as a library, computer lab, music room, and art room. In contrast, two new schools were built in the last 5 years that are bright, have flexible space and are wired for the latest technology. The portables are difficult to maintain, and repair costs are higher in the long run than if real additions had been built in the first place. The most common repair needs in Ramona's schools are roofs, signal systems (alarms, bells, and intercoms), and paving.

Facilities financing

Officials attribute its facilities' funding problems to the community's inability to pass a bond issue—two attempts in the past 8 years have failed—their small rural district's competitive disadvantage in applying for state funds, and the state's emphasis on building new schools rather than retrofitting.

The district's facilities budget varies each year but comprises (1) a new building program that uses matching state funds, (2) a routine maintenance budget that is about 2 percent of the district's $30 million education budget ($600,000), and (3) a deferred maintenance budget that is 0.5 percent of the education budget ($150,000) and is supposed to be matched by the state but rarely is in full.

RAYMOND, WASHINGTON

Overview

TABLE I.8.—RAYMOND, WASHINGTON

Enrollment	760.
Number of schools	3.
Racial composition	69 percent white. 21 percent Asian. 5 percent Hispanic. 5 percent Native American.
Students on free or reduced lunch	50 percent.
Type	Small town, rural.
Minimum estimated to make all repairs	$14 million.

Raymond is a western Washington town that has not recovered from the timber industry downturn of the early 1980s. The town and student populations have declined, and the demographics have changed dramatically. All three Raymond schools are old and two may be unsafe. The high school was built in 1925. It is a three-story structure of unreinforced concrete that may not safely withstand the possible earthquakes in the area. In addition, the buiding's systems are old and inadequate. Steam pipes are noisy and provide too little or too much heat from room to room. One 1924 elementary school is built of wood—a potential fire hazard—and will be closed in 2 years. A third school was built during the 1050s and will received a major remodeling and new addition next year.

Facilities financing

Raymond recently passed its first bond issue since the 1950s to fund the remodeling of and addition for an elementary school. A bond issue proposed in 1990 to build a new facility for grades kindergarten to 12 failed. The public does not want to spend money on school maintenance and construction, and the tax base is too low to raise adequate funding. According to the school superintendent, the Columbia Tower (a Seattle skyscraper) has a higher assessed value than the entire district of Raymond. The district's budget is $4 million, which is made up of local levies and state funding. Over the next 2 years, they will ask for a levy increase of $75,000, specifically for needed repairs.

RICHMOND, VIRGINIA

Overview

TABLE I.9.—RICHMOND, VIRGINIA

Enrollment	28,000
Number of schools	58.
Racial composition	88 percent black. 12 percent other.
Students on free or reduced lunch	68 percent
Type	Urban.
Minimum estimated to make all repairs.	$100 million.

Renovation presents the biggest facility issue for the Richmond schools. Their 58 buildings are visually appealing yet old-fashioned compared with 21st century learning standards. Many, if not most, of the district's renovation needs are due to the buildings' age: The average building was built around the time of World War II. Ninety percent of the buildings lack central air conditioning; many schools close early in September and May/June because the heat and poor ventilation creates breathing problems for the children.

In the past 20 years, 20 schools have been closed; only 2 new schools have opened.

Facilities financing

Richmond is a poor city: the average family income is $17,700. The facilities director says he usually asks for $18 million but only gets $3 million and about 3 percent of the education budget for maintenance. He says city planners and voters view the buildings as architectural landmarks and think of them in terms of 1950s standards of learning. Also, the money he would have used for renovations has been spent on meeting ''federal codes.''

The district has tried twice to get the state to match funds for deferred maintenance but was rejected each time. New construction gets funded through bond issues.

WASHINGTON, DC

Overview

TABLE I.10.—WASHINGTON, DC

Enrollment	85,000.
Number of schools	164.
Racial composition	95 percent black. 5 percent other.
Students on free or reduced lunch	62 percent.
Type	Urban.
Minimum estimated to make all repairs.	$460 million.

With a capacity of 140,000 students, many of Washington's school facilities are old and underused. Only 22 schools of 164—mainly elementary—have been built in the last 20 years. According to the district's facilities manager, the average age of Washington's schools is 50 years. While structurally sound, these older buildings house old—sometimes original—systems, such as the heating and air conditioning or electrical systems, which have major repair problems.

Washington schools have many urgent repair needs, according to the district facilities manager. Old boiler systems have steam leakages causing such infrastructure erosion that whole school wings have been condemned and cordoned off; leaky roofs are causing ceilings to crumble on teachers' and students' desks; fire doors are warped and stick. In addition, the district was under court order to fix the most serious of an estimated $90 million worth of fire code violations by the start of the 1994–95 school year. These violations included locked or blocked exit doors, defective or missing fire doors, broken alarms, malfunctioning boilers, and unsafe electrical systems. Many of the schools also lack air conditioning and are so poorly insulated that children must wear coats to keep warm in winter weather.

Facilities financing

From the school district's total operating and capital budget of about $552 million in fiscal year 1994, about $100 million (18 percent) was allocated to school maintenance and capital improvement. Of this, approximately $25 million (including salaries) goes to the district's facilities office, with the balance given directly to the schools for their on-site maintenance and operations. The building maintenance budget has declined from about 18 percent to 14 percent of the total school budget in the past 10 years.

Funds for school maintenance and repair and capital improvements come from the District of Columbia's general budget, over which the Congress has authority. Until 1985, the District's capital improvement program was financed only through money borrowed from the U.S. Treasury. After 1985, the District was given authority to sell general obligation bonds in the capital markets. From 1985 through 1994, the schools received $314 million to finance capital improvements: $232 million through general obligation bond issuances, $59 million borrowed from the U.S. Treasury, and $23 million from District tax revenue.

[Appendix II not reproduced in the RECORD.]

APPENDIX III

PROJECT ADVISERS

The following individuals advised this report either by (a) serving on our expert panel on January 31, 1994; (b) helping with the development of our questionnaire; or (c) reviewing a draft report.

Allen C. Abend,[abc] Chief, School Facilities Branch, Maryland State Department of Education.

Phillip T. Chen,[b] Construction Technician, Division of Construction, Department of Facilities Management, Board of Education of Montgomery County (Maryland).

Greg Coleman,[ab] Capital Asset Management Administrator, Office of Infrastructure Support Services, U.S. Department of Energy.

Laurel Cornish,[a] Director of Facilities, U.S. Department of Education, Impact Aid, School Facilities Branch.

(Mr.) Vivian A. D'Souza,[b] Acting Director, Division of Maintenance, Department of Facilities Management, Board of Education of Montgomery County (Maryland).

Kenneth J. Ducote,[bc] Director, Department of Facility Planning, New Orleans Public Schools.

Robert Feild,[a] Director, Committee on Architecture for Education, American Institute of Architects.

William Fowler,[abc] Education Statistician, U.S. Department of Education, National Center for Education Statistics.

Lawrence Friedman,[bc] Associate Director, Regional Policy Information Center, North Central Regional Educational Laboratory.

Thomas E. Glass,[b] Professor, Department of Leadership and Educational Policy Studies, Northern Illinois University.

Terence C. Golden,[a] Chairman, Bailey Realty.

Thomas Grooms,[a] Program Manger, Federal Design Office, National Endowment for the Arts.

Shirley J. Hansen,[a] President, Hansen Associates.

Alton C. Halavin,[b] Assistant Superintendent for Facilities Services, Fairfax County Public Schools, Fairfax County, Virginia.

Bruce Hunter,[b] Executive Director, American Association of School Administrators.

Eddie L. King,[b] Auditor, Inspector General, Department of Education.

Andrew Lemer,[a] President Matrix Group, Inc.

William H. McAfee III,[b] Facilities Manager, Division of Facilities Management, District of Columbia Public Schools.

Roger Scott,[bc] Program Director, Southwest Regional Laboratory.

Richard L. Siegel,[a] (Former) Director of Facilities Services, Smithsonian Institution.

Lisa J. Walker,[a] Executive Director, Education Writers Association.

Tony J. Wall,[b,c] Executive Director/CEO, The Council of Educational Facilities Planners International.

William M. Wilder,[b] Director, Department of Facilities Management, Board of Education of Montgomery County (Maryland).

APPENDIX IV

GAO QUESTIONNAIRE FOR LOCAL EDUCATION AGENCIES

DEAR SURVEY RESPONDENT: The U.S. General Accounting Office (GAO) has been asked by the United States Congress to obtain information about school facilities, such as physical condition and capacity. While several limited studies have been done recently, no comprehensive national study of school facilities has been done in 30 years.

The Congress needs this information to shape the details of federal policy, such as funding for the School Infrastructure Act of 1994. All responses are confidential. We will report your data only in statistical summaries so that individuals cannot be identified.

This questionnaire should be answered by district level personnel who are very familiar with the school facilities in this district. You may wish to consult with other district level personnel or with school level personnel, such as principals, in answering some questions.

We are conducting this study with only a sample of randomly selected schools, so the data on your school(s) is very important because it represents many other schools. Please respond even if the schools selected are new. If you have questions about the survey, please call Ms. Ella Cleveland (202) 512–7066 or Ms. Edna Saltzman (313) 256–8109.

Mail your completed questionnaire in the enclosed envelope within 2 weeks to: Ms. Ella Cleveland, U.S. General Accounting Office, NGB, Suite 650, 441 G St., NW, Washington, DC 20548.

Thank you for your cooperation in this very important effort.

Sincerely yours,

LINDA G. MORRA,
Director, Education and Employment.

SECTION I.—DISTRICT INFORMATION

1. What would probably be the total cost of all repairs/renovations/modernizations required to put all of this district's schools in good overall condition? Give your best estimate. If all of this district's schools are already in good (or better) overall condition, enter zero.

Overall condition includes both physical condition and the ability of the schools to meet the functional requirements of instructional programs. Good condition means that only routine maintenance or minor repair is required.

$_____.00

2. On which of the sources listed below is this estimate based? Circle ALL that apply.

Does not apply—all schools already in good (or better) overall condition	0
Sources	
Facilities inspection(s)/assessment(s) performed within the last three years by licensed professionals	1
Repair/renovation/modernization work already being performed and/or contracted for	2
Capital improvement/facilities master plan or schedule	3
My best professional judgment	4
Opinions of other district administrators	5
Other (specify: _____)	6

3. During the last 3 years, how much money has been spent in this district on the federal mandates listed below? Include money spent in 1993–1994. If exact amounts are not readily available, give your best estimate. Enter zero if none. Circle ''1'' if spending was not needed.

Federal mandates	Spending not needed	Amount spent
Accessibility for student with disabilities	1	$_____.00
Managing/correcting:		
Asbestos	1	$_____.00
Lead in water/paint	1	$_____.00
Underground storage tanks (USTs)	1	$_____.00
Radon	1	$_____.00
Other (specify: _____)	1	$_____.00

4. How much money will probably need to be spent in this district during the next 3 years on these federal mandates? If exact amounts are not readily available, give your best estimate. If spending will not be needed, circle ''1.'' If unknown, circle ''2.''

Federal mandates	Spending will not be needed	Amount unknown	Probably needed
Accessibility for students with disabilities	1	2	$_____.00
Managing/correcting:			
Asbestos	1	2	$_____.00
Lead in water/paint	1	2	$_____.00
Underground storage tanks (USTs)	1	2	$_____.00
Radon	1	2	$_____.00
Other (specify: _____	1	2	$_____.00

5. Are these spending needs for federal mandates included in your answer to question 1? Circle one for each mandate listed.

Federal mandates	Does not apply—not needed/unknown	Yes—included	No—not included
Accessibility for students with disabilities	1	2	3
Managing/correcting:			
Asbestos	1	2	3
Lead in water/paint	1	2	3
Underground storage tanks (USTs)	1	2	3
Radon	1	2	3
Other (specify: _____	1	2	3

6. In what year was a bond issue most recently passed for this district? Enter the last two digits of the year.

19____.

7. What was the total amount of this most recently passed bond issue?

$_____.00

8. How much money did this most recently passed bond issue provide for the items listed below? Enter zero if none.

Items	*Amount Provided*
Construction of new schools	$_____.00
Repair/renovation/modernization of existing schools	$_____.00
Asbestos removal	$_____.00
Removal of Underground Storage Tank (USTs)	$_____.00
Removal of other environmental conditions	$_____.00
Purchase of computers	$_____.00
Purchase of telecommunications equipment	$_____.00
Access for students with disabilities	$_____.00

9. During the last 10 years, how many bond issues have failed to pass?

_____ bond issues failed to pass

10. Do you currently have a bond issue before the electorate? Circle one.

Yes.....1
No.....2

SECTION II.—SCHOOL INFORMATION

This section asks about the first school shown on the Instruction Sheet enclosed with this survey.

1. Name of school: Please enter the name of the first school shown on the Instruction Sheet.

School's survey identification number: Please enter the survey identification number of the first school shown on the instruction sheet.

2. If any of the following statements are true for this school, please circle the number of the appropriate answer. Circle all that apply.

This school teaches only postsecondary (beyond grade 12) or adult education students	1
This school is no longer in operation	2
This school is a private school, not a public school	3
This institution or organization is not a school	4

3. Which of the following grades did this school offer around the first of October, 1993: Circle all that apply.

Grade 1	1
Grade 2	2
Grade 3	3
Grade 4	4
Grade 5	5
Grade 6	6
Grade 7	7
Grade 8	8
Grade 9	9
Grade 10	10
Grade 11	11
Grade 12	12
Pre-kindergarten	13
Ungraded (including upgraded special education students)	15

Stop! If you marked any of the above statements go to the next school information section.

4. What was the total number of Full Time Equivalent (FTE) students enrolled in this school around the first of October 1993?

_____
total FTE students

5. Does this school house any of its students in instructional facilities located off of its site, such as rented space in another school, church, etc.? Circle one.

Yes...1
No...2----> go to question 8

6. How many of this school's Full Time Equivalent (FTE) students are housed in off-site instructional facilities?

_____FTE students housed off-site

7. How many total square feet of off-site instructional facilities does this school have? If exact measurements are not readily available, give your best estimate.

_____total square feet off-site

8. How many original buildings, attached and/or detached permanent additions to the original buildings, and temporary buildings does this school have on-site? If this school does not have any permanent additions or any temporary buildings on-site, enter zero for these categories.

On-Site Buildings—Number

Original buildings—_____

Attached and/or detached permanent additions to original buildings—_____

Temporary buildings—_____

9. How many total square feet do the original buildings, the attached and/or detached permanent additions, and the temporary buildings have? If exact measurements are not readily available, give your best estimate. If this school does not have any permanent additions or any temporary buildings on-site, enter zero for these categories.

On-Site Buildings—Total Square Feet

Original buildings—_____

Attached and/or detached permanent additions to original buildings—_____

Temporary buildings—_____

10. What is the overall condition of the original buildings, the attached and/or detached permanent additions, and the temporary buildings? Refer to the rating scale shown below, and circle one for each category of building. If this school does not have any permanent additions or any temporary buildings onsite, circle ''0.''

Overall condition includes both physical condition and the ability of the buildings to meet the functional requirements of instructional programs.

Rating Scale

Excellent: new or easily restorable to ''like new'' condition; only minimal routine maintenance required.

Good: only routine maintenance or minor repair required.

Adequate: some preventive maintenance and/or corrective repair required.

Fair: fails to meet code and functional requirement in some cases; failure(s) are inconvenient; extensive corrective maintenance and repair required.

Poor: consistent substandard performance; failure(s) and disruptive and costly; fails most code and functional requirements; requires constant attention, renovation, or replacement. Major corrective repair or overhaul required.

Replace: Non-operational or significantly substantial performance. Replacement required.

On-site buildings	School does not have	Excellent	Good	Adequate	Fair	Poor	Replace
Original buildings	N/A	1	2	3	4	5	6
Attached and/or detached permanent additions to original buildings	0	1	2	3	4	5	6
Temporary buildings	0	1	2	3	4	5	6

11. What would probably be the total cost of all repairs/renovations/modernizations required to put this school's on-site buildings in good overall condition? Give your best estimate. If this school's on-site buildings are already in good (or better) overall condition, enter zero.

$_____.00

12. On which of the sources listed below is this estimate based? Circle ALL that apply.

Sources	
Does not apply—already in good (or better) overall condition	0
Facilities inspection(s)/assessments(s) performed within the last three years by licensed professionals	1
Repair/renovation/modernization work already being performed and/or contracted for	2
Capital improvement/facilities master plan or schedule	3
My best professional judgment	4
Opinions of other district administrators	5
Other (specify: _____)	6

13. During the last 3 years, how much money has been spent on the federal mandates listed below for this school's on-site buildings? Include money spent in 1993–1994. If exact amounts are not readily available, give your best estimate. Enter zero if none. Circle ''1'' if spending was not needed.

Federal mandates—spending not needed

	Amount spent
Accessibility for students with disabilities—1	$_____.00
Managing/correcting:	
Asbestos—1	$_____.00
Lead in water/paint—1	$_____.00
Underground storage tanks (USTs)—1	$_____.00
Radon—1	$_____.00
Other (specify: ____)—1	$_____.00

14. How much money will probably need to be spent during the next 3 years on these federal mandates for this school's on-site buildings? If exact amounts are not readily available, give your best estimate. If spending will not be needed, circle ''1.'' If unknown, circle ''2.''

Federal mandates	Spending will not be needed	Unknown	Amount probably needed
Accessibility for students with disabilities	1	2	$_____.00
Managing/correcting:			
Asbestos	1	2	$_____.00
Lead in water/paint	1	2	$_____.00
Underground storage tanks (USTs)	1	2	$_____.00
Radon	1	2	$_____.00
Other (specify: _____)	1	2	$_____.00

15. Are these spending needs for federal mandates included in your answer to question 11? Circle one for each mandate listed.

Federal mandates	Does not apply—Not needed/unknown	Yes—Included	No—Not included
Accessibility for students with disabilities	1	2	3
Managing/correcting:			
Asbestos	1	2	3
Lead in water/paint	1	2	3
Underground storage tanks (USTs)	1	2	3
Radon	1	2	3
Other (specify: _____)			

16. Overall, what is the physical condition of each of the building features listed below for this school's on-site buildings? Refer to the rating scale shown below, and circle one for EACH building feature listed.

Rating Scale

Excellent: new or easily restorable to ''like new'' condition; only minimal routine maintenance required.

Good: only routine maintenance or minor repair required.

Adequate: some preventive maintenance and/or corrective repair required.

Fair: fails to meet code or functional requirement in some cases; failure(s) are inconvenient; extensive corrective maintenance and repair required.

Poor: consistent substandard performance; failure(s) are disruptive and costly; fails most code and functional requirements; requires constant attention, renovation, or replacement. Major corrective repair or overhaul required.

Replace: Non-operational or significantly substandard performance. Replacement required.

Building feature	Excellent	Good	Adequate	Fair	Poor	Replace
Roofs	1	2	3	4	5	6
Framing, floors, foundations	1	2	3	4	5	6
Exterior walls finishes, windows, doors	1	2	3	4	5	6
Interior finishes, trims	1	2	3	4	5	6
Plumbing	1	2	3	4	5	6
Heating, ventilation, air conditioning	1	2	3	4	5	6
Electrical power	1	2	3	4	5	6
Electrical lighting	1	2	3	4	5	6
Life safety codes	1	2	3	4	5	6

17. Do this school's on-site buildings have sufficient capability in each of the communications technology elements listed below to meet the functional requirements of modern educational technology? Circle one for EACH element listed.

Technology elements	Very sufficient	Moderately sufficient	Somewhat sufficient	Not sufficient
Computers for instructional use	1	2	3	4
Computer printers for instructional use	1	2	3	4
Computer networks for instructional use	1	2	3	4
Modems	1	2	3	4
Telephone lines for modems	1	2	3	4
Telephones in instructional areas	1	2	3	4
Television sets	1	2	3	4
Laser disk players/VCRS	1	2	3	4
Conduits/raceways for computer/computer network cables	1	2	3	4
Fiber optic cable	1	2	3	4
Electrical wiring for computers/communications technology	1	2	3	4
Electrical power for computers/communications technology	1	2	3	4

18. How many computers for instructional use does this school have? Include computers at both on-site buildings and off-site instructional facilities.

_____ computers for instructional use

19. How well do this school's on-site buildings meet the functional requirement of the activities listed below? Circle one for EACH activity listed.

Activity	Very well	Moderatley well	Somewhat well	Not well at all
Small group instruction	1	2	3	4
Large group (50 or more students) instruction	1	2	3	4
Storage of alternative student assessment materials	1	2	3	4
Display of alternative student assessment materials	1	2	3	4
Parent support activities, such as tutoring, planning, making materials, etc.	1	2	3	4
Social/Health Care Services	1	2	3	4
Teachers' planning	1	2	3	4
Private areas for student counseling and testing	1	2	3	4
Laboratory science	1	2	3	4
Library/Media Center	1	2	3	4
Day care	1	2	3	4
Before/after school care	1	2	3	4

20. How satisfactory or unsatisfactory is each of the following environmental factors in this school's on-site buildings? Circle one for each factor listed.

Environmental factor	Very satisfactory	Satisfactory	Unsatisfactory	Very unsatisfactory
Lighting	1	2	3	4
Heating	1	2	3	4
Ventilation	1	2	3	4
Indoor air quality	1	2	3	4
Acoustics for noise control	1	2	3	4
Flexibility of instructional space (e.g., expandability, convertability, adaptability)	1	2	3	4
Energy efficiency	1	2	3	4

Environmental factor	Very satisfactory	Satisfactory	Unsatisfactory	Very unsatisfactory
Physical security of buildings	1	2	3	4

21. Does this school have air conditioning in classrooms, administrative offices, and/or other areas? Circle ALL that apply.

Yes, in classrooms	1
Yes, In administrative offices	2
Yes, in other areas	3
No, no air conditioning in this school at all	4 (go to question 23)

22. How satisfactory or unsatisfactory is the air conditioning in classrooms, administrative offices, and/or other areas? Circle one for each category listed.

	Very satisfactory	Satisfactory	Unsatisfactory	Very unsatisfactory
Air conditioning in:				
Classrooms	1	2	3	4
Administrative offices	1	2	3	4
Other areas	1	2	3	4

23. Does this school participate in the National School Lunch Program? Circle one.

Yes	1
No	2

24. Regardless of whether this school participates in the National School Lunch Program, around the first of October, 1993, were any students in this school eligible for the program? Circle one.

Yes	1
No	2 (go to question 27)
Don't know	3 (go to question 27)

25. Around the first of October, 1993, how many applicants in this school were approved for the National School Lunch Program? Enter zero if none.

_____ applicants approved

26. Around the first of October, 1993, how many students in this school received free or reduced lunches through the National School Lunch Program? Enter zero if none.

_____ recipients

27. How many students in this school were absent on the most recent school day? If none were absent, please enter zero.

_____ students absent

28. What type of school is this? Circle one.

Regular elementary or secondary	1
Elementary or secondary with special program emphasis—for example, science/math school, performing arts high school, talented/gifted school, foreign language immersion school, etc.	2
Special education—primarily serves students with disabilities	3
Vocational/technical—primarily serves students being trained for occupations	4
Alternative—offers a curriculum designed to provide alternative or nontraditional education; does not specifically fall into the categories of regular, special education, or vocational school	5

29. Does this school offer a magnet program? Circle one.

Yes	1
No	2

If this is the last school listed on your instruction sheet, please go directly to the last page of this questionnaire.

COMMENTS

Do you have any comments you would like to make about school facilities? Circle one.

Yes 1—Please use the space below.
No 2

APPENDIX V

DATA POINTS FOR REPORT FIGURES

Tables in this appendix provide data for the figures in the report.

TABLE V.1.—DATA FOR FIGURE 1: SCHOOL OFFICIALS REPORT BILLIONS NEEDED FOR REPAIRS AND TO COMPLY WITH FEDERAL MANDATES IN THE NEXT 3 YEARS

Amount needed to	All schools
Make all repairs required to put schools in good overall condition	$101,200,000,000
Provide accessibility for disabled students	5,183,407,780
Manage/correct asbestos	2,395,445,006
Manage/correct lead in water and paint	386,647,141
Manage/correct underground storage tanks	303,004,301
Manage/correct radon	31,521,318
Manage/correct other requirements	2,380,065,108

TABLE V.2.—DATA FOR FIGURE 2: AMOUNT SCHOOLS REPORTED SPENDING OVER THE LAST 3 YEARS AND NEED IN THE NEXT 3 YEARS TO FULFILL FEDERAL MANDATES

Federal mandate	Reported spent in the last 3 years	Reported needed in the next 3 years
Accessibility for students with disabilities	$1,519,755,380	$5,183,407,780
Manage/correct asbestos	1,728,277,353	2,395,445,006
Manage/correct other requirements	200,885,750	2,380,065,108
Manage/correct lead in water/pains	46,241,652	386,647,141
Manage/correct underground storage tanks	302,014,949	303,004,301
Manage/correct radon	13,854,263	31,521,318

TABLE V.3.—DATA FOR FIGURE 3: PERCENT OF BUILDINGS REPORTED IN LESS-THAN-ADEQUATE OVERALL CONDITION

Type of building	Percentage of less-than-adequate buildings
Temporary buildings	27.9
Original buildings	26.2
Attached and/or detached permanent additions to original buildings	17.9

TABLE V.4.—DATA FOR FIGURE 4: BUILDING REPAIRS REPORTED NEEDED IN AMERICA'S SCHOOLS

Type of building	Percentage of schools reporting less-than-adequate building features
HVAC	36.4
Plumbing	29.8
Roofs	27.3
Exterior walls, finishes, windows, doors	26.6
Electrical power	26.4
Electrical lighting	25.4
Interior finishes, trims	24.1
Life safety codes	19.0
Framing, floors, foundations	17.9

TABLE V.5.—DATA FOR FIGURE 5: PERCENTAGE OF SCHOOLS REPORTING UNSATISFACTORY OR VERY UNSATISFACTORY ENVIRONMENTAL FACTORS

Type of environmental condition	Percentage of schools reporting less-than-adequate environmental conditions
Acoustics for noise control	28.1
Ventilation	27.1
Physical security of buildings	24.2
Indoor air quality	19.2
Heating	18.9
Lighting	15.6

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FOOTNOTES

[1] Education Writers Association, ''Wolves at the Schoolhouse Door: An Investigation of the Condition of Public School Buildings'' (Washington, D.C.: 1989); American Association of School Administrators, ''Schoolhouse in the Red: A Guidebook for Cutting Our Losses'' (Arlington, VA.: 1992).

[2] Subsequent reports will address (1) the capability of schools to meet education reform goals and the needs of 21st century education, (2) state role in school facilities, and (3) the relationship of facility conditions to select school and staffing data.

[3] Sampling error is ± 6.61 percent.

[4] No complete national data has been compiled for current replacement value of school buildings. Researchers have used the $422 billion estimate made by the Education Writers Association in ''Wolves at the Schoolhouse Door.''

[5] ''Good'' condition means that only routine maintenance or minor repair is required. ''Overall'' condition includes both physical condition and the ability of the schools to meet the functional requirements of instructional programs.

[6] Any one school may have more than one building.

[7] *Pauley* v. *Kelly*, No. 75–C1268 (Kanawha County Cir. Ct., W. Va., May 1982).

[8] The Education Infrastructure Act of 1994 was introduced by Senator Carol Moseley-Braun and was passed as part of Improving America's Schools Act (P.L. 103–382, Oct. 20, 1994).

[9] The National Education Goals are set forth in Goals 2000: Educate America Act (P.L. 103–227, March 31, 1994). The goals concern (1) school readiness; (2) school completion; (3) student achievement and citizenship; (4) teacher education and professional development; (5) math and science achievement; (6) adult literacy and lifelong learning; (7) safe, disciplined, and alcohol- and drug-free schools; and (8) parental participation.

[10] ''School Construction Specification and Financing, National Survey Data 1994,'' MGT of America, Inc., prepared for Hawaii's State Department of Education (Tallahassee, Fla.: 1994). See also our forthcoming report on state role in school facilities.

[11] The Impact Aid program is administered by the Department of Education and provided $12 million in fiscal year 1994 for constructing and renovating schools in districts that educate ''federally connected'' children, such as those whose parents live and/or work on military installations and Indian reservations.

[12] ''Toxic Substances: Information on Costs and Financial Aid to Schools to Control Asbestos'' GAO/RCED–92–57FS, Jan. 15, 1992).

[13] Building features include roofs; framing, floors, and foundations; exterior walls, finishes, windows, and doors; interior finishes and trims; plumbing, heating, ventilation, air conditioning; electrical power; electrical lighting; and life safety codes.

[14] Environmental factors include lighting, heating, ventilation, indoor air quality, acoustics for noise control, energy efficiency, and physical security of buildings. Although flexibility of instructional space is included as an environmental factor in our questionnaire (see app. IV), we are not addressing those issues in this report. They will be addressed in a forthcoming report.

[15] We are referring to maintenance as the upkeep of property and equipment while repair is work to restore damaged or worn-out property to a normal operating condition.

[16] ''Repair and Maintenance of School Buildings,'' (National Audit Office, Report by the Controller and Auditor General, London, England, Ordered by the House of Commons to be printed July 25, 1991).

[17] We asked district officials what would probably be the total cost of all repairs and renovations required to put all of the district's schools in good overall condition.

Ms. MOSELEY-BRAUN. Mr. President, I wish to thank the GAO staff for their exhaustive work in an area that Senator HARKIN and I have recognized as a critical issue of readiness for educational excellence in this country. And that is what I call the dirty little secret of the condition of America's schools.

The GAO report makes it clear what the American people already know: our schools are deteriorating and we need to fix them. Infrastructure investment

is just another way of saying the obvious; that we need to reverse the decades-long habit of trying to ignore the decay while we struggle to eke out money for programs. We have delayed maintenance for too long in too many schools and now the results of that neglect are unmistakable. The chickens, literally, have come home to roost.

Some 14 million children, Mr. President, attend schools that are reported needing extensive repair or replacement. These schools are distributed nationwide. Recent research has concluded that facilities in poor condition may contribute to students' poor performance. It is inherently unfair to hold youngsters to nationwide standards for achievement if they do not have an equal opportunity to learn. It is frightening that major repair and renovation needs exist in fully a third of the 80,000 schools in our country and that over 60 percent of that number reported at least one major feature in disrepair, needing extensive overhaul if not replacement. Most schools reported multiple problems of this nature.

These are not just cosmetic concerns. And I would like my staff to put up some pictures.

This is a series of pictures showing classroom conditions. You will notice that this science lab looks like it has been the victim of a failed science experiment. But can you imagine our youngsters trying to study the sciences and be competitive in this world economy trying to learn in facilities like that.

Here is one with peeling lead-based paint; burned out lights; unrepaired fire damage. Here is one: Water damage caused buckling floors and missing tiles; more water damage; termites eating out the school library shelves. Here is a basement in a school in Chicago. Here is one of peeling lead-based paint and burned out lights, which is not replaceable. But the irony of it, Mr. President, is the little sign here on the blackboard that says ''academic success.'' It is hard to think that someone can achieve academic success in a setting like this.

These are not just cosmetic concerns. When we speak of major repair needs, we are referring to conditions that are unsafe or even harmful to children's health. The GAO report estimates that the Nation's schools need $112 billion to repair and upgrade America's investment in school facilities to bring them to good overall condition. Just to comply with the Federal mandates to remove asbestos, or lead paint, or radon and pesticides and hazardous materials is estimated to require $11 billion. We are courting disaster if we fail to recognize that these capital needs relate directly to the health and safety of our children in the environment second in importance only to the home.

For example, some 7 million children attended schools with life safety code violations, some 11 million in schools with electrical problems, 15 million in schools with heating and air quality problems, and 12 million with plumbing problems; 11.9 million children attend schools with leaky roofs, and 7 million with hazardous floors. We have allowed the deterioration to continue to a point that the courts are beginning to step in, as was done here in the Nation's Capitol and in New York, to require that life-threatening conditions be rectified. Sometimes, as in a recent student strike in Chicago, the children take matters in their own hands.

The Education Infrastructure Act is a small, first step toward putting Federal support where the needs are. It is included in Goals 2000, and was appropriated last year at the $100 million level. I hope we will have the support of the President to keep this money in the budget, and to increase the appropriation this year. Time is not on our side, deferred investment will just make it more, not less expensive to correct. I hope to have the support required to give this initiative the priority it deserves.

I first became aware of the problems facing our Nation's education infrastructure while serving in the Illinois House of Representatives. Throughout my 2½ terms in office, I visited school districts across the State and witnessed the deteriorating condition of public school facilities in both urban and rural districts alike.

Yet, it was not until I began working on education legislation in the U.S. Senate, that I learned that the Federal Government had not collected data on the condition of our Nation's public school facilities since 1965.

Knowing that my efforts to improve our Nation's education infrastructure would be limited by insufficient data, I sent a letter to the General Accounting Office last year, which was cosigned by Senators KENNEDY, PELL, SIMON, and WELLSTONE, requesting a comprehensive, nationwide study on the condition of our Nation's public school facilities.

In responding to my request, the General Accounting Office surveyed a random sample of our Nation's 15,000 school districts and 80,000 public schools from April to December 1994. GAO staff members also visited 41 schools in 10 school districts across the country to supplement their quantitative data with personal observations.

Based on responses from 7.8 percent of the schools sampled, GAO concluded that our Nation's public schools need $112 billion to restore their facilities to good overall condition—including $6 billion to make programs accessible to all students and $5 billion to correct or remove hazardous substances.

More specifically, GAO found that out of the 42 million public school students in the United States: 14 million or 33 percent of all students attend schools that need to extensively repair or replace one or more buildings; 59 percent attend schools that need to repair or replace one or more building features; and 52 percent attend schools that have at least one unsatisfactory environmental condition.

As I said, we are not speaking of cosmetic concerns. We are referring to conditions that are unsafe or even harmful to the safety and well being of our children.

According to the GAO report, this situation is one that is pervasive, it is widespread, and runs the gamut in terms of conditions. I would like my staff to take this set of pictures down and put up the one regarding plumbing conditions and the like.

Mr. President, I am going to digress for a moment while my staff displays the next set of pictures. I have a teenage son. If anything, the youngsters know this. This is not a surprise to any of the pages sitting here. They know of some school in the community from which they come that has this kind of problem. It is a widespread problem. It is a nationwide problem. It is an urban as well as rural problem. These pictures are from urban school districts specifically.

Here is a toilet used to redirect sewage from a broken pipe in the wall here in Washington, DC—our Nation's Capital. This is the kind of infrastructure disrepair that youngsters must try to learn in on a daily basis. Can you imagine the activities in the classroom right next-door to this bathroom?

This next picture is of a home economics sink—small wonder you could not do very well in home economics, if that is the kind of conditions in which you have to work.

Mr. President, in addition to these plumbing concerns, I would also like you to take an opportunity to look at some of the external problems. Young people do not cause the fascia to crack or the structural damage. Here is one of a front door which is a life and safety violation. The front door is chained so the students cannot be injured by the holes in the crumbling front steps of this particular school.

This picture shows structural damage which I can see in the brickwork, in the fascia. Again, a function of the failure to invest in repairs and maintenance over time. This picture is of a 30-year-old portable classroom in New Orleans that was built to last for 10 years. It was designed to be temporary. A portable classroom that was designed to be temporary. It is still there and that is the condition in which it is in—coming apart at the seams. This picture shows a demountable classroom held in place by a steel plate and the wall, of course, is crumbling under the windows.

Mr. President, 7 million students attend schools with life safety code violations; 11 million attend schools with electrical problems; 15 million attend schools with heating, ventilation, and air-conditioning problems; 12 million attend schools with plumbing problems; and 11.9 million students attend schools with leaky roofs.

Mr. President, in preparing their report, GAO staff members traveled

across the country to examine public school facilities in America's urban communities and found that: In New York City, A $151 million state-of-the-art science high school is only blocks away from another high school housed in a 100-year-old building which has served as a stable, fire house, factory, and office building; this school's elevators do not work, its interior classrooms have no windows, it's ventilation system needs major repairs, and its heating depends on a fireman's stoking the coal furnace by hand. In Chicago, a leaking roof at one elementary school caused floors to buckle and plaster on the walls and ceilings to crumble; since the leaking roof also flooded parts of the electric wiring system, one teacher would not turn on her lights during rainstorms for fear of electric shock—or fire. In Washington, DC, water damage from an old steam-heating system at a 60-year-old junior high school has caused so much wall deterioration that an entire wing has been condemned; steam damage is also causing lead-based wall paint to peel. And, in New Orleans, most of the school buildings have no air-conditioning although the average morning relative humidity in New Orleans is 87 percent; Formosan termites have also deteriorated the structure of many schools; in one elementary school, ants ate books on shelves as well as the shelves themselves.

GAO staff members also visited public school facilities in America's rural communities and found similar problems.

In Raymond, WA, one elementary school is made of wood, a potential fire hazard, and the 70-year-old high school is made of unreinforced concrete that probably can not withstand earthquakes.

In Ramona, CA, one elementary school is comprised solely of portable classrooms with no cafeteria or auditorium; one portable room serves as a library, computer lab, music room, and art room. and, in Grandview, WA, the middle school, which was built to house 475 students, currently enrolls 700, while the elementary school designed for 375, now enrolls 464 students.

At this point I would also like to raise the issue of school overcrowding, because, this issue also causes facilities to become inadequate. So you have damage as we see here in these pictures exacerbated by just the numbers of children that are crowding into inadequate facilities.

Mr. President, the American system of public education has historically given local school boards primary responsibility for maintaining our Nation's education infrastructure.

For a long time, local school boards were able to meet that responsibility. However, the ability of local school boards to continue to meet that responsibility has steadily declined, in large part because of escalating costs in the operating budget.

To build schools, local school boards rely on local property taxes. And, as we all know, school boards in every State in the country are finding it increasingly difficult to support their instructional programs, much less their school facilities, with local property taxes.

Local property taxes are an inadequate source of funding for public education because they make the quality of public education dependent on the local property wealth.

Two districts in Illinois illustrate the gross disparities created by our current school financing system.

In 1990, the owner of a $100,000 home in a prosperous community paid $2,103 in local property taxes. This community spent an average of $10,085 per child in its public schools. On the other hand, the owner of a $100,000 home in a low- and moderate-income community paid $4,139 in local property taxes, almost twice as much, but was only able to spend $3,483 per child in its public schools—less than one-third of the money the more prosperous community was spending, and for a host of reasons that goes to local schools.

In their responses to the GAO survey, school officials reported that they have difficulty raising money for needed repairs and renovation, in large part, because of the demands of their operating budgets as well as an antitax sentiment among voters resulting in the failure of bond issues.

In other words the local property tax is an inadequate, inelastic base for funding schools generally, but it has the particularly Draconian effect with regard to infrastructure and facilities because the school districts do not want to have to go back to the taxpayers in order to meet these kinds of repairs.

In fact, 33 percent of school districts reported that they have had an average of two bond issues fail in the past 10 years and that bond proceeds are often much less than needed for repairs. For example, GAO found that: In Montgomery, AL, voters defeated a local tax referendum to remove all portable buildings and build new schools on June 28, 1994; and, in Pomona, CA, a $62.5 million bond issue was submitted to the voters after a survey indicated that the $200 million needed for repairs would be rejected by the voters.

In short, one survey respondent commented that:

> The current public attitudes about the economy and education are generally so negative that passing a bond referendum is a fantasy.

Mr. President, the Federal Government, as well as most States, continue to force local school districts to rely increasingly on local property taxes for public education, in general, and for school repair and construction projects, in particular.

In Illinois, for example, the local share of public education funding increased from 48 percent during the 1980–81 school year to 58 percent during the 1992–93 school year, while the State share feel from 43 to 34 percent during this same period.

So what we see is a continuing shifting of the burden to the local property taxpayer, and the local property taxpayer is not able to go any further to meet this need.

At the same time, State support for the repair, renovation, alternation, and construction of public school facilities has fallen even more dramatically in illinois—one of 23 State that provides little or no funding for school facilities projects.

Although the Illinois General Assembly created the Capital Assistance Program in the early 1970's to help local school districts finance school repair and construction projects, support for this program has diminished rapidly.

During fiscal years 1985 through 1990, the State of Illinois appropriated only $18 million for local school repair and construction projects, and then only on an individual direct-grant basis.

I point out also that the last time this issue even was reviewed at a State level in our State was in 1987 when the Illinois Board of Education that our rural districts alone needed over $500 million to restore their facilities to good overall conditions. The GAO report found that Chicago public schools need $2.9 billion.

Mr. President, the Federal Government must accept a share of the blame for failing to provide our Nation's children with school environments which are conducive to learning.

In just the last decade alone, the Federal Government's share of public education funding has dropped from 9.8 to 6.1 percent.

That could make a lot of difference when it comes to providing an environment in which young people can learn.

The Federal Government has historically addressed the problems facing our Nation's public schools by passing important legislation including: Section 504 of the Rehabilitation Act of 1973; the Asbestos Hazard Emergency Response Act of 1986; and the Americans with Disabilities Act of 1990. While these laws have laudable goals, they have the effect of passing on even greater costs to already overburdened school districts.

The GAO report states clearly that these mandates alone, account for $11 billion of the $112 billion needed to fix our schools.

Last year, Congress passed the Goals 2000: Educate America Act which President Clinton signed into law on March 31, 1994. I supported this legislation because it promises to create a coherent, national framework for education reform founded on the national education goals.

Since one essential building block of reform is better school facilities, I am pleased that Goals 2000 includes an amendment I introduced that directs the national education standards and improvement council to develop voluntary national opportunity-to-learn

standards which address the condition of school facilities.

Nonetheless, I firmly believe that it is inherently unfair to expect our children to meet national performance standards if they do not have an equal opportunity to learn.

That is why I introduced the Education Infrastructure Act last April. This legislation, which was included in the reauthorization of the Elementary and Secondary Education Act [ESEA], is specifically designed to help local school districts ensure the health and safety of students through the repair, renovation, alteration, and construction of school facilities.

With the help of my distinguished colleague from Iowa [Mr. HARKIN], I was able to include $100 million in the 1995 Department of Education budget for the education infrastructure program. While this appropriation level represents a drop in the bucket in terms of our Nation's education infrastructure needs, it is significant, nonetheless, because it is the first drop.

The Education Infrastructure Act requires the Secretary of Education to award funds to school districts with at least 15 percent child poverty rates and urgent repair and renovation needs.

This legislation further targets program funds by requiring the Secretary to award funds among eligible school districts on the basis of:

The number or percentages of children in poverty;

The extent to which they lack the fiscal capacity to undertake the project without Federal assistance;

The threat the physical condition of the plant poses to the safety and well-being of students; and

The age of the facility to be replaced.

Mr. President, the Education Infrastructure Act does not infringe upon local control over public education in any way. Rather, it seeks to supplement, augment, and assist local efforts to support education in the least intrusive way possible by helping local school boards support the repair, renovation, alteration, and construction of our Nation's public elementary and secondary school facilities.

Mr. President, the Education Infrastructure Act will help our children learn by providing an environment conducive to learning. In her research at Georgetown University, Maureen Edwards found that students in poor school facilities can be expected to fall 5.5 percentage points below those in schools in fair condition and 11 percentage points below those in schools in excellent condition.

For all of these reasons, the Education Infrastructure Act was enthusiastically endorsed by the National PTA, the National Education Association, the National School Boards Association, the American Association of School Administrators, the Council of Great City Schools, the National Committee for adequate School Housing, the City University of New York, the AFL–CIO Building and Trades Commission, the Military Impacted Schools Association, the American Library Association, the American Federation of Teachers, the National Association of Federal Education Program Administrators, ASPIRA, the Council of Education Facilities Planners International, and the American Federation of School Administrators.

Mr. President, I have taken the time today to highlight the results of the GAO report as well as the merits of the Education Infrastructure Act because Republican Members of Congress are currently preparing legislation that would rescind the $100 million appropriated for the Education Infrastructure Act in 1995.

Needless to say, I am vehemently opposed to any proposal that would force Congress to take this giant leap backward. In my view, it would be unconscionable for Congress to withdraw funding for the Education Infrastructure Act—especially now given the results of the GAO report.

Mr. President, I would like to conclude my remarks by urging my colleagues to read the ''Condition of America's Schools'' report for themselves and to join me in working to secure funding for the Education Infrastructure Act in 1995 and 1996.

Rather, I believe that President Clinton should include at least $200 million for the Education Infrastructure Program in his fiscal year 1996 budget request and that Congress should meet this request.

By providing this needed and long overdue support, we will begin to address our failure to adequately engage Federal resources in behalf of preparing our children for competition in this global economy and securing the future of our Democratic institutions. This is not our children's interest; this is in our national interest.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. SHELBY. Mr. President, we are involved here in a truly historic debate. The proposed balanced budget amendment will decide the fate of America for years to come. Our decision will dictate whether our children and grandchildren will live free and prosper from the fruits of their labor or, on the other hand, live in a Third World economy subservient to the economic leaders of other industrialized nations in the world.

Debtors are never free to choose. They are never free to choose. They are only subject to the dominion of their creditors. We all know this.

Interest payments on the national debt now are expected to be $310 billion this year. Interest payments on the national debt are expected to be $310 billion. Think of it. That comes out to be about $4,600 per family, or 52 percent of all individual income taxes collected in America this year. The national debt itself is over $4.75 trillion, going on $5 trillion. Gross domestic product is only about $6.5 trillion.

Combined, these numbers produce a debt-to-GDP ratio of 73 percent. As the debt continues to grow, so inevitably does the tax burden on the American people. Granted, Mr. President, we have gotten away with debt in the past, but the time to pay the bill is rapidly approaching. The global markets are beginning to experience a capital crunch. European economies are expanding and picking up steam. Southeast Asian markets are booming. Japan is calling on its reserves to rebuild infrastructure after the earthquake.

In short, Mr. President, demand for capital is simply growing faster than can be supplied and, as a result, investors are being more selective about which markets they place their money in, as they should be.

A very clear and primary concern of financial markets is a nation's poor economic policies and its debt structure. I submit here today that the lack of budget discipline we display here in the United States is not highly regarded among any investor in the world. Our current account stood at $104 billion in 1993. This means we either sold $104 billion in assets to foreign entities, borrowed $104 billion from foreign entities, or a combination of the two.

Although a current account deficit in and of itself is not a bad thing, the accumulation of persistent current account deficits, over time, leads to a great big external debt. These deficits identify a systematic shortfall of savings below investment, due to an expansion of consumption relative to income. The implication is that we borrow to finance current consumption expenditures that have no effect on economic growth or future income in this country. In other words, the Government is borrowing abroad to finance an excess of expenditures over income. We are living beyond our means.

Projections of higher current account deficits run well into the foreseeable future. The former Chairman of the Federal Reserve Board, Paul Volcker, for whom we all have great respect, has warned of the current account deficit addiction, as he calls it.

He said:

> * * * we simply cannot afford to become addicted to drawing on increasing amounts of foreign savings to help finance our internal economy. Part of our domestic industry—that part dependent on exports, or competing with imports—would be sacrificed. The stability of the dollar and of our domestic financial markets would become hostage to events abroad. If recovery is to proceed elsewhere, as we want, other countries will increasingly need their own savings. Although we do not know when, the process eventually would break down.

Those are not my words. They are the words of Dr. Volcker. We cannot,

Mr. President, continue to finance our debt through a balance of payments deficit unless we want to find ourselves in the same type of crisis as Mexico, or perhaps Canada.

Mexico, as we all know, is in dire financial straits. The cause of Mexico's problems is based on large budget and current account deficits. Mexico tried to finance consumption by running a current account deficit at nearly 8 percent of the gross domestic product, living well beyond their means. Financial markets realized the risk of holding Mexican currency and proceeded in a widespread selloff of the peso. Mexico was virtually helpless in its ability to manage monetary policy due to what? Their structural debt problem.

Now, Mr. President, private investors will not even prop up the peso without a guarantee from the United States or something similar to that, the President announced.

If you look to our north, another neighbor is financially destitute. Canada's long-suffering dollar is at a 9-year low. Canada has the second highest ratio of debt-to-gross domestic product of any industrialized country, and 35 percent of all Federal revenues in Canada go to service the debt. In addition, Canada ran a $30 billion balance of payments deficit in this past year. Canada is in serious trouble. Some Third World countries have a better handle on their debt than our neighbor to the north.

The fiscal order of Canada is forcing real budget decisions and real budget cuts. No fiddling around the edges, Canada is on the verge of becoming a Third World country if they do not take immediate and radical steps to address their debt problem.

Mexico and Canada, for us, provide valuable, tangible lessons of what happens if a country does not address its debt. Some will agree but then point out that a balanced budget amendment is not the means to achieve fiscal restraint. We have heard it before. They say, ''All we need is the will to balance the budget.'' That is a common refrain. Unfortunately, Mr. President, the collective will is not present in this body.

In a 1932 radio speech, President Franklin Delano Roosevelt said, ''Any government, like any family, can for a year spend a little more than it earns. But you and I know that a continuance of that habit means the poorhouse.''

Well, President Roosevelt knew what he was talking about. Our continued habit has produced deficits in 33 out of the last 34 years in this country. Can you imagine? In 33 of the last 34 years we have run a deficit. Presently, there is no end in sight. I believe every Senator has the will to balance the budget. What they will not agree on is the way to get there. The nature of this institution instills incentives to vote for additional expenditures and deficit financing.

No one likes to take the heat for cutting specific programs. Indeed, many Senators do not vote to cut programs for that very reason. That is why we need a balanced budget amendment—to instill the individual will for action on the collective body. Planning strategic cuts over a period of 7 years will be much less painful than waiting until the debt collector is standing at our door.

Currently, 48 States possess one sort of a balanced budget requirement or another. For them, these restrictions provide a source of discipline throughout the budget process. It is an extremely aristocratic notion to believe we are better than the States and do not need such forced discipline to help us balance the budget, because we all know better. Congress has proven we cannot balance the budget on our own, and we will not.

Canada and Mexico are wake-up calls. I do not want the United States to be like Britain in the 1970's or New Zealand in the 1980's. Both had to call in the International Monetary Fund to stabilize its falling currency. We had a scare last year and unless we pass this amendment, we may very well experience far worse in the future.

Government deficits reduce national savings. As a result, the economy accumulates less domestic capital and fewer foreign assets. The lack of Government investment means that borrowing is not being used to finance increased productivity and therefore will not provide a foundation for future repayment of the debt. Federal Government surpluses are pertinent to the repayment of the public debt. Some will say we can raise taxes. I, for one, will not support an increase in taxes. It has been proven time and time again, higher taxes do not eliminate the deficit. Instead, experience suggests Congress will spend all tax revenues plus the highest deficit markets will accept.

The accumulation of debt will cause our children and grandchildren to have lower standards of living, because they will inherit a smaller capital stock and because they will have to pay more interest to foreign investors. This reduction in future living standards reflects the true burden of Government debt.

To vote against this amendment is to disregard the obligation we have to protect and serve not only this country but the children that we bequeath this burden to.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise in support of the passage of the balanced budget amendment. I could not think of a single issue—not one—that is more central nor more tied to what the American people were saying in these past elections than the balanced budget amendment.

It is interesting to me that in the President's speech on the state of the Union, he said something to the effect that the American people were not singing to us, they were shouting at us. On that point, the President is absolutely correct. They were shouting at Washington and they were demanding change in the way we govern ourselves. Eighty to eighty-five percent of the American people have indicated support of the passage of an amendment to the Constitution to balance the budget.

The President said he heard the shouting, but apparently he has not because if you heard what they were saying, you would be in front of the train trying to bring the change that they are asking for here to Washington and he would be leading the charge for passage of the balanced budget amendment.

The President is going to be submitting his budget next week and we will see what kind of glidepath or pattern he sets toward approaching a balanced budget by the year 2002.

I want to repeat, Mr. President, in the last election, there was no greater centerpiece than the issue of passage of a balanced budget amendment. None. That election had a profound effect on this administration, which is obvious. It has found itself in deliberation. It is talking about reinventing, the President rereading the speeches of 1992, trying to understand where a disconnect occurred. I would suggest that the administration need not go no further than to read what America is saying about the passage of a balanced budget amendment.

Very often those who speak in opposition to the passage of the amendment will cite various sectors of our society and suggest harm will come to them if we exercise the discipline of balancing our budget. I would suggest the complete reverse.

Mr. President, if we do not take charge of our financial health, the various constituencies—children, the poor, the aged, whatever—of our Nation will be the first victims of a Nation so financially unhealthy that it cannot take care of its critical needs. It is exactly those constituencies.

There is an article in my home paper, the Atlanta Constitution, that suggests that a balanced budget amendment could only be achieved on the backs of children. How absurd.

The balanced budget amendment is exactly for children, for the future, for guaranteeing a country that has sufficient financial strength to defend itself, financial strength to care for itself. Have we ever known a family, Mr. President, or a business or a community that was able to function if it was financially unhealthy? I mean, are bankrupt companies able to do what they are supposed to do? Absolutely not. If a family is charged too much on a credit card, what happens? They are in trouble. It often leads to even breakup of the family. A country without having secured financial health cannot care for itself.

Mr. President, we are engaged in a defining moment in the history of this Nation and specifically on the issue of a balanced budget amendment. This is

a clarification of exactly where we stand. Are we for changing the way we govern ourselves in this country in Washington or are we for leaving everything just the way it is?

Mr. President, America has already made up her mind. She has said just as loudly as she can—the President is correct, shouting at us—''change.''

One of the reasons I think the President had difficulty in the last midterm election was that they thought that was what he was going to do, fight for change, and they came to know that he would not. And he has defined the next 2 years of his administration by saying that he will not support a balanced budget amendment.

Mr. President, as I said, this is a defining moment. You either stand with the country that called for change, we change the manner in which we govern our finance, or you reject the elections, you reject what the American people have called for and you become a defender of Washington just the way it is. It is just that clear. Are you for change or do you want it to stay the way it is?

America is calling for change. This is the chance to answer the call.

Mr. President, I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise in strong support of cutting wasteful spending and closing tax loopholes. I also rise in opposition to this balanced budget amendment to our Constitution. I rise in strong support of fiscal discipline, but in opposition to a fiscal straitjacket that could cripple our economy and possibly even cause a depression.

I rise in strong support of balancing our operating budget, but in opposition to using the Social Security trust fund to do it.

I rise in support of a pay-as-you-go approach to the Government's operating expenses, but in opposition to an amendment that ignores the fundamental principles of capital budgeting under which virtually all businesses and States operate.

And I rise in strong support of holding Congress accountable for deficit spending, but in opposition to giving unelected judges the power to raise taxes and to cut Social Security benefits.

Mr. President, I know that very deep public concerns have led to the consideration of this amendment. The American people have made it quite clear that they want to do more to cut wasteful spending, and I agree. We have made some progress, but there is still far too much waste from top-heavy Government bureaucracies to farm subsidies, the B–2 bomber, star wars, the space station, and a variety of special interest tax loopholes. We should do better.

Americans have every right to be angry about the deficits and the waste that contributes to it. Unfortunately, the balanced budget amendment is not a magic bullet that is going to kill the deficit. I only wish it were. We must be frank with the American people. This amendment will not cut a dime of spending or close a single tax loophole.

As many of my colleagues have urged on this floor, it is critical that before this amendment is approved, its proponents should tell the American people how this is going to get the job done. Unfortunately, so far, we have seen very little inclination to do so.

Proponents do not want to tell the people that taxes for ordinary Americans could skyrocket. They do not want to tell the people that Social Security benefits could be slashed. They do not want to tell the people about lost Medicare services or fewer FBI agents or fewer border guards, or weakening of immigration enforcement.

Mr. President, are these kinds of drastic consequences really likely? Let us just take a look at the numbers. Proponents of this amendment claim that they can balance the budget while increasing military spending and cutting taxes for the very wealthy.

But according to an analysis by the staff of the Budget Committee, to accomplish that and meet the Government's existing commitments to retirees and Medicare, you would have to cut everything else literally 50-percent. Think about that for a moment, Mr. President: A 50-percent cut in law enforcement, a 50-percent cut in education, a 50-percent cut in immigration enforcement, a 50-percent cut in job training.

The people in my State of New Jersey would pay a very high price for this amendment, especially if it is adopted in conjunction with other items in the so-called Contract With America.

According to a study by the Department of Treasury, New Jersey would lose almost $1 billion annually for programs like education, job training, environmental protection, and housing. We would lose another $200 million for highways. And to make up for these and other cuts, State taxes would have to increase by 17.5 percent across the board, 17.5 percent.

Our Governor has been working very hard to reduce the tax burden on the citizens within our State. Her target is 30 percent. And with this change, we could be looking at a 17.5 percent increase in taxes.

The balanced budget amendment also could wreak havoc on our State's economy. There is a study by a well-respected organization, the Wharton econometrics group, or WEFA, as they are known, which analyzed how the amendment would affect the economy in the year 2003.

According to WEFA, the amendment would mean that more than 178,000 people would lose their jobs and the unemployment rate would increase by almost 5 percent and personal incomes would decline by about 12 percent.

Again, Mr. President, these are figures from a well-respected, nonpartisan research organization and they should at least give us serious pause.

I wonder if the American people have any idea that we are talking about these kinds of drastic steps. I doubt it. And one reason is that amendment proponents have kept the public in the dark. They refuse to say what will be necessary if this amendment passes.

Why? Because the public would turn it down and it would remove this kind of hide-and-seek cover that is being used to present this deception, to suggest that the way we are going to solve our problems is by some formula change to our Constitution which has as its structure the separation of powers and the responsibility for each one of those divisions of Government.

No, Mr. President, what we are trying to do is escape by this the responsibility that each of us took when we took our oath under the Constitution to protect our public and the Constitution of the United States. What we are doing is we are seeing a duck-for-cover tactic that I do not think, in the final analysis is, A, going to work and, B, going to answer the problems.

Unfortunately, by the time the public learns what this amendment will really do, it may be too late. That, in fact, is the admitted strategy of its proponents, and it is outrageous and abhorrent as a way to debate an amendment to the Constitution of the United States.

We should be honest not only about the cuts and tax increases that are likely to result from this amendment, but also about the way the amendment would hamstring critical efforts to stimulate the economy during serious recessions.

When the economy suffers a cyclical downturn, tax revenues go down, and spending for unemployment benefits and other items go up. So the deficit increases. Under this amendment, Congress would then have to make up the difference with measures that will stifle the economy even further.

That is not good economic policy, and it will have extremely serious consequences for ordinary Americans. It will mean lost jobs and lost wages and, quite possibly, could send us into another Great Depression before we would know what hit us. Having lived through the Depression as a child, I can tell you, that is something to avoid like the plague.

Let me discuss another aspect of this amendment that will take us backward. The amendment proposes to balance the budget by raiding the Social Security trust fund. Social Security represents a sacred trust between the Government and our citizens. Often, it is the mainstay of retirees. We have made a commitment, virtually a contract, with the men and women who have been paying into that trust fund. And so it is critical that we keep it off budget.

If Congress spends too much on welfare or the military or farm programs, or if we give too many tax breaks to

the wealthy, why should Social Security beneficiaries have to suffer as a result? They earned their benefits. They paid into that fund, and it is wrong to make them pay for Congress' overspending.

Just as it is wrong to include Social Security in the budget, it is also wrong to commingle the capital and operating budgets.

Mr. President, how many times have we heard the same line: ''If ordinary Americans can balance their family budgets, if State governments can balance their budgets, and if businesses can balance their budgets, why can't the Federal Government?''

It is a good question. The real answer is that families, States, and businesses balance their operating budgets most of the time.

But they also borrow for long-term investments. Families borrow to buy a house. They borrow to buy a car. States borrow for capital projects that will benefit future generations. Every day, individuals borrow to invest in their future by taking student loans. Every day, if they did not, most would have no future, especially in today's increasingly technological age. That is why they do not balance all receipts and expenditures. They balance only their operating budgets.

By contrast, Mr. President, this amendment lumps the capital and operating budgets together and makes no distinction between investments and operational expenses. This ignores the basic standards of budgeting under which virtually every business in America operates. As a former CEO of a major public corporation, Mr. President, I can attest to that. Commingling the capital and operating budgets threatens to rob us of investments that are critical to our Nation's future.

Mr. President, investments are necessary in our Nation's roads, in our bridges, in our airports, in our air traffic control systems, investments in the information superhighway, and the technology of tomorrow. To ignore these kinds of investments is to ignore our own future.

We hear it said many times that if we do not have the balanced budget amendment, we are delegating to our children and future generations huge obligations to repay debt, interest, and principal. Mr. President, as all know, if you do not make investments in tomorrow, that really deprives our children and our grandchildren of opportunities to learn, to earn, to work, to develop. That is when the real penalty to our children and grandchildren is going to come into place. And we can do something about it. We can reduce our spending, and we can proceed to a closer balance of our budgets.

We have seen in the last few years, with the President's leadership, we have been able to substantially cut our annual deficit, somewhere around a half-trillion dollars over the 3-year period as contemplated.

This amendment also violates a fundamental principle upon which our Nation was founded, and that is the principle of no taxation without representation. The balanced budget amendment is intended to encourage the Congress and the President to agree on measures to eliminate the deficit, but what happens if the two branches disagree? What happens if notwithstanding the amendment the budget is still not in balance? The answer most likely at least as presently designed is that the courts eventually would step in to implement the constitutional requirement. That could mean not only cuts in Social Security, Medicare, and other Federal benefits but substantial tax increases.

Some proponents of a balanced budget amendment may say that that is not their intent, but the courts will not be able to rely on such claims. First, there is real disagreement among amendment proponents, and some insist the courts must enforce the amendment. More importantly, there is nothing in the amendment itself that seeks to preclude the courts from enforcing the amendment's provisions. This contrasts starkly with other versions of a balanced budget amendment. And so the obvious question for the courts will be if the amendment is not intended to preclude judicial enforcement, why does it not include an explicit statement to that effect?

Mr. President, the court's power to interpret and enforce the Constitution has been well established since the famed case of Marbury versus Madison. That long established power is not likely to be relinquished. So, Mr. President, the threat of judicial taxation under a balanced budget amendment is not hypothetical; it is very real. And that is not just my opinion. Legal experts of all political stripes agree.

For example, Harvard law professor Laurence Tribe has testified that ''Judicial enforcement of the proposed balanced budget amendment would necessarily plunge judges into the heart of the taxing, spending and budgetary process.''

Similarly, the conservative former Supreme Court nominee, Robert Bork, who also opposes the balanced budget amendment, has warned that the amendment could lead to tax increases mandated by unelected, lifetime-tenured judges. In his words, ''The judiciary would have effectively assumed a considerable degree of control over the fiscal affairs of the United States. That outcome cannot be desired by anyone, including the courts.''

Mr. President, over 200 years ago, this country was born after citizens were burdened with stiff tax increases imposed by distant elite rulers who did not represent the people and who were unaccountable to them. The rallying cry of our oppressed forefathers was clear and compelling, and that same rallying cry applies to this amendment—no taxation without representation. I say it again: No taxation without representation. It is permanently embedded in the earliest of our schoolchildren. They know about that episode in American history. They know the impact that had in the creation of this wonderful democracy of ours.

Mr. President, it is bad enough that ordinary Americans are now paying an unfair portion of the tax burden, but that burden may get a lot heavier when judges inherit the task of balancing the budget. After all, the judiciary is the branch of Government that by design is most insulated from the public. In fact, judges are supposed to ignore public opinion.

Mr. President, if we think the American people are angry today, just wait. Wait until they get hit with a huge tax increase by a district court judge who they have never heard of, never voted for, and they will never be able to vote out of office. The reaction will make the famous Boston insurrection look really like a tea party.

I know that some amendment proponents are convinced that the courts will not intervene to enforce this amendment. Some have pointed to the doctrines of standing or justiciability and conveniently assume that these old doctrines would apply to a newly adopted constitutional amendment. But supporters of the amendment cannot have it both ways. If this amendment really will force Congress to reduce the deficit, who is going to force us if not the courts?

After all, Congress has already passed laws to force itself to balance the budget, but without an effective enforcement mechanism we simply sidestepped our own law. And now amendment proponents assure us that the same evasion will not be possible under a constitutional amendment. But just as prohibition did not stop drinking because it was unenforceable, a balanced budget will not stop spending if courts are impotent to enforce it.

I find it absolutely astounding to hear amendment proponents argue that the courts would never enforce this amendment. We are talking about an amendment to the Constitution of the United States, not a sense-of-the-Congress resolution. Can the proponents really believe that the balanced budget amendment is nothing more than a meaningless scrap of paper that cannot be enforced? Could they really be that cynical? I do not think so, Mr. President. And I do not think the courts will either. As Laurence Tribe and Robert Bork concluded, the courts will not presume that this is a meaningless and utterly unenforceable scrap of paper. To the contrary. And that is why the threat of judicial taxation is so real.

Mr. President, there is no need to rely on the judiciary to reduce the deficit. Congress could do it. We could start now if we had the political will. In fact, we have already made significant progress which I have talked about earlier.

Consider what happened over the past 15 years. In 1981, the deficit was

$79 billion, but then President Reagan's huge military buildup, combined with tax cuts for the wealthiest Americans, led to massive borrowing on an unprecedented scale. By 1992, Republican policies had increased the deficit from $79 billion to $290 billion. Since President Clinton began to reverse those policies, however, there has been a dramatic improvement. The deficit this year will be about 40 percent smaller than in President Bush's last year. For the first time in a decade we will have reduced the deficit for 3 consecutive years. The number of Federal employees is the lowest since the Kennedy administration. And though much remains to be done, we have shown that it does not take a constitutional amendment to reduce the deficit in a meaningful way.

The irony, Mr. President, is that passing the balanced budget amendment actually will make it far less likely that Congress will balance the budget any time soon. This amendment does not require a balanced budget until the year 2002. Meanwhile, Members who vote for the amendment will be able to point to their vote as evidence of their supposed commitment to fiscal discipline. I called it a coverup, and I use the same term now. What do you want from me? I voted for a balanced budget. Yes; I did not do my share by cutting expenses properly or balancing revenues with expenses, but I did vote after all for a balanced budget amendment. It is hide and seek. Hide the mission and seek the culprit.

Meanwhile, Members who will have voted for the amendment can draw a degree of satisfaction, not for the job done but for escaping responsibility. If you can say that you voted for a balanced budget, why bother to antagonize constituents by cutting their benefit programs or raising taxes? There is far less incentive to make those hard choices.

Mr. President, we should not play games with the American people. We do not want to shift, or should not shift, the burden of our responsibilities to the judiciary. Let us not put off the hard decisions for another 7 years. Let us take personal responsibility for the problem and make those tough choices now.

In conclusion, Mr. President, I strongly support cutting wasteful spending and reducing our deficit. I want to work with my colleagues to actually cut the spending and close tax loopholes. This balanced budget proposal does not help reach that goal. Its proponents refuse to spell out what steps they would actually take to reduce spending. Whose benefits will be cut and whose taxes will go up? But one thing we do know for sure. The impact on our Nation could be disastrous. It could hamstring our ability to respond to economic and other emergencies, undermine our entire Social Security system, rob us of investments for our future, and allow unelected and unaccountable judges to impose huge tax increases on ordinary Americans.

Mr. President, this amendment could go down as one of the most tragic mistakes ever made by this Nation. I hope that my colleagues will face up to the reality of the situation. As has been said before, you can run but you cannot hide. That is what happens if we pass this amendment without detailing how it is that we are going to balance their budget and how it is that we are going to deal with the responsibility and maintain it where it belongs, in the House and in the Senate.

I urge my colleagues in the strongest possible terms to reject it.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank my distinguished colleague, Mr. LAUTENBERG, for his excellent statement. He has very eloquently stated the clear and present dangers with which this amendment is fraught.

Mr. President, I thank the Chair for momentarily indulging me.

I have listened to the claims of the proponents of the constitutional amendment for several days now. I compliment them on their dedication to their cause as they see it. I respect their viewpoints. I respect their sincerity. I realize that not everyone will agree with my viewpoint.

I commend the distinguished Senator from Illinois [Mr. SIMON] for his steadfast adherence to the belief that the way to get our deficits under control and lower the interest on the debt and reduce the debt is to adopt a constitutional amendment on the balanced budget. I respect his viewpoint. I differ with it. But we can differ as friends and we do differ as friends.

I also speak with respect to the distinguished Senator from Utah, [Mr. HATCH] the chairman of the Senate Committee on the Judiciary who, likewise, is a very formidable and principled supporter of the proposal.

I think they are wrong. They think I am wrong. But it is the people out there that we hope to try to persuade as to which viewpoint is the right one under the circumstances that obtain.

So, I have listened to the claims of the proponents of the constitutional amendment for several days now. As I listen, it seems to me that the proponents are selling this amendment very much as the oldtime peddlers sold tonic and liniments, kidney pills and snake oil. To hear the proponents tell it, this amendment will cure everything that is wrong with America today. Just take a good swig of this magic tonic, Mr. and Mrs. America, and your problems will disappear. Your head will stop aching, your arthritis will clear up, your fingernails will grow long and strong, your taste buds will tingle, your hearing will become more acute, you can throw away that old hearing aid, your eyesight will sharpen—you can just pitch those glasses out in the garbage can, your dandruff will cease if you have any hair, and if you do not have hair, it will grow hair, and your teeth will whiten, and your marriage will probably improve. Well, never mind what is in the bottle, Mr. and Mrs. America. Truth in labeling does not apply here. Truth in advertising has no place in this debate. Just swallow this magic elixir and all will be well.

The American people are usually good consumers. They are smart consumers. They read the labels on the grocery store shelf to get the fat content of the food they purchase. They read the labels on the cans of food that they buy. I know that I do. I want to find out how much fat there is in the contents, how much sodium, how much cholesterol, and how much by way of proteins and carbohydrates, and so on. They look under the hood of cars that they buy. They kick the tires. They squeeze the cantaloupes and the cabbage heads and the other vegetables that they buy. They read the fine print. And by law that fine print has to be placed on those labels.

But, I do not believe that the U.S. Senate is helping the people to exercise their prowess as good consumers with the debate so far on this floor.

We are not discussing national priorities. We are not spelling out the contents of this snake oil amendment. We are not talking about what should or should not be on the chopping block for cuts. We are not debating the impact such an amendment might have on the economy. We are not talking about the hard choices that will have to be made by somebody if we enact this amendment.

The proponents have steadfastly refused to lay out a plan to get to balance. Take it on faith, America. It will be good for the Nation. I ask the American people this question. How will you know if this amendment will be good for the Nation, if you do not know what cuts will be made, how much each State, how much each county, how much each municipality across this land will have to absorb as a result of the cuts, how much your State taxes will rise as a result of Federal cuts, what will happen to Federal aid to education, what will happen to Medicare, what might happen to our ability to compete with other countries in the global marketplace, what the amendment might mean in terms of clean water, clean air, veteran's pensions, the national defense? In short, what is good for the Nation cannot be determined without these critical details. To claim otherwise is simply untrue. The American people are entitled to more than a wink and a nod and an empty promise. We cannot treat the American people like children. If they want us to balance the budget, we must honestly try to do it, but we must also honestly tell them what it will take and that it will mean radical changes

in their personal lives. We owe the people that. To do less is to betray their faith in sending us here.

It is puzzling to me that after the results of this election, when the people said that they were tired of Washington politicians telling them what to do, we come right out of the box with this proposed major, major, major change in our organic law and with the proponents claiming that the people do not need details. In other words, once again, we in Washington know what is good for you, Mr. and Mrs. America.

This balanced budget amendment is good for you. You do not need to know the details. Take the tonic. Swallow the snake oil. Do not read the label. There is no label to read. Take our word for it.

Well, if the American people let us get away with that dodge, then they have done themselves a giant disservice.

If they swallow this quack medicine without being sure that it will not be toxic to the system, they surely may regret the results.

If the Governors and the mayors and the State legislators do not demand to know just exactly what we have in mind when we talk about balancing this budget in 7 years, then how can they have an informed debate if and when the matter rests squarely on their doorsteps? How will they explain to their own constituents what the amendment means?

If I were a Governor contemplating the enactment of this amendment, I would be very, very nervous about any promises that I had made to lower taxes. I know that I have heard some of the Governors throughout the land boast about how much they have cut taxes in the States. They want the Senate to adopt this balanced budget amendment, and they talk about how much they, the Governors, have cut taxes in their States. I heard the Governor from New Jersey speak about how many taxes she had cut and how much more in taxes she proposes to cut. Well, I have news for you, Governor, if this amendment is adopted, you will not be cutting taxes, you will be raising taxes—and remember that.

With the magnitude of cuts that will have to be made to get a balanced budget by 2002, the States are going to have to pick up an awful lot of slack. Essential services will have to continue. Unemployment, dirty air, dirty water, hazardous waste, hungry children, natural disasters—all of these problems will still be with us. A balanced budget amendment will not change any of those things. Not one. State and local officials should know what we here in the Congress propose to do before they are asked to buy this pig in a giant poke. We do not even know if there is a pig in that poke. We cannot even get a squeal out of that pig. If State and local officials do not trust the Federal Government to make decisions involving the States, how in the world can they sit on their hands and trust us with the mother of all decisions? That is what we are talking about. How in the world do we dare to ask the people and the Governors and the mayors and the State legislators to make this giant leap of faith?

What will the people do if they do not like the plan that emerges? What if we adopt this amendment without laying out the plan? Well, it will be too late then. The contract with evasion will have been signed, sealed, and delivered, right to your doorstep. Once the amendment is in the Constitution, the politicians do not have to listen to the people's voices on the matter anymore. The politicians can cut and run. They can say we have to cut Medicare, whether you like it or not, because the Constitution has this new amendment in it and it says we have to; we have to do that. The politicians can say to the States, you have to pay for these services now with hikes in your own taxes. You told us to balance the budget in 7 years, so we have to cut money to the States. Or the politicians can commit the ultimate act of evasion and say we cannot do this, Mr. and Mrs. America. We told you that we could, but it is too harsh and we will not do it. The President will have to do it. He will have to impound funds, or the courts will have to order us to balance the budget, and they will also have to tell us which taxes to raise and which programs to cut.

What then will we have done to our country? What then will we have done to the Constitution, as written by the Framers 208 years ago? It has been in effect now for 206 years. What then will we have done to representative democracy?

We must not treat the people as children. We must tell them the truth, even though it is inconvenient for us politicians to do so. What kind of Senators are we if we simply pass this amendment without ourselves knowing what it means? We say that the American people ought to know what it means. We, as their representatives in this great assembly, have a right to know what it means and have a duty to ask what it means before we vote. What kind of representation are we giving to our people if we do not demand to know the details of this proposal before we vote on it? We as Senators cannot say, ''Let this cup pass from me,'' vote on the amendment and then let us tell the people what is in it. We cannot say, ''Let this cup pass from me.'' We cannot say that we shall wash our hands of it. We have a duty to those constituents who send us to this forum of the States to know what we are doing, what we are buying onto, and what we are about to perpetrate on the people, before we cast our votes. I say we will not be giving the people very worthy representation unless we insist on it. I say we ought to feel like backing up to the pay window if we cannot do better. The American people pay us very well. We ought to be willing to do what they pay us to do, which is to make intelligent, well-informed decisions in their behalf and in their best interests. We cannot do the job they sent us here to do if we are simply going to be stonewalled by the proponents and prevented from knowing what we are about to do to our country.

Talleyrand, who was Napoleon's foreign minister, and who dominated politics in Europe for 40 years, said, ''There is more wisdom in public opinion than is to be found in Napoleon, Voltaire, or all the ministers of state, present and to come.'' And that is true. But there is wisdom in public opinion only if the public is informed, if the public is duly and well informed about the subject on which a judgment is to be made. Woodrow Wilson said that the informing function is as important as is the legislative function of a legislative body. Inform the people who send us here.

At this point in time, this amendment is nothing more than a slogan. It has no teeth at this point in time. Its impact is unknown. It is nothing more than an empty promise. Many of the Members who will vote on it will not even be here when it has to be fulfilled. It is, in that sense, a fraud. It is a fantasy created for children, and the American people are not all children. It is an illusion without substance. It is cotton candy for the public mind. It is Tinkerbell on wings of gossamer. Disneyland has really come to Washington after all. But the American people are not children and Senators are not elected to simply pacify the American people with fairy tales.

Let us demand to know the proponents' plan to achieve a balanced budget by 2002 before we ask the States to decide and before we graft this pneumatic excrescence, this wart filled with wind onto our time-tested Constitution.

Mr. President, if this amendment is adopted, it will likely mean massive cuts in Federal spending over the next 7 years.

As the chart to my left states, the Congressional Budget Office estimates that a balanced budget amendment would require a cut of $1.2 trillion in Federal spending by the year 2002. To make matters worse, the so-called Contract With America; which I did not sign onto, Mr. President. I carry my contract right here over my heart. Alexander the Great idolized ''The Iliad'' and he kept a copy under his pillow at night. I keep a copy of my contract with America—right here, here it is—over my heart, the Constitution of the United States of America. It is a contract that was signed 208 years ago, not something that just blew up out of the wind before last year's election.

To make matters worse, the so-called Contract With America calls for tax cuts—tax cuts; what a folly—tax cuts along with balancing the budget. This would require a cut of $1.5 trillion in Federal spending by the year 2002.

How much is $1 trillion? Count it at the rate of $1 per second—32,000 years.

Now, you may ask, what will get whacked? What will get whacked? What will get whacked?

CBO tells us that if we were to cut all Federal spending across-the-board, except interest on the debt, it would require a 13-percent cut in all programs in the year 2002 alone. That means cutting defense, Social Security, Medicare, Medicaid, veterans' pensions, veterans' compensation, veterans' medical care, prison construction and operations, environmental cleanup, civilian and military pensions, housing, education, all student loan programs, infrastructure investments on transportation projects, water projects, locks and dams, the FBI, national parks, food stamps, WIC, and the list goes on and on—all will have to be cut 13 percent across-the-board. But, there are a number of Senators who want to take Social Security off of the deficit-cutting table. If we do that, everything else will have to be cut 18 percent.

The so-called Contract With America—which I did not sign. This is my contract with America, the Constitution of the United States. I have sworn 13 times to support and defend that Constitution over the last 48 years—13 times.

But it calls for increases, not cuts, in defense spending. If we exempt interest, if we exempt Social Security, if we exempt defense, then everything else will have to be cut 22 percent. And the so-called Contract With America calls for tax cuts which, if they are enacted, will increase the across-the-board cut to 30 percent—30 percent.

This next chart to my left shows the Federal budget for fiscal year 1995. That is all we have to go on as of now. The President will send us up his proposed budget next week. In the upper left-hand corner, we see that total spending for 1995 equals $1,531 billion; in other words, $1.531 trillion. Of that amount, 22 percent, or $334 billion, will be spent on Social Security; 18 percent, or $270 billion, will be spent this fiscal year on defense; net interest on the national debt will take up $235 billion, or 15 percent of the whole budget; Medicare will take up 11 percent, or $176 billion; State and local grants will take up $231 billion, or 15 percent of the total; and all other Federal spending in fiscal year 1995 will equal $286 billion, or 19 percent of the Federal budget.

What is it that could be cut from this and future budgets if this constitutional amendment requiring a balanced budget is put in place? Well, as I have said, there is strong interest in exempting Social Security—they want to exempt Social Security—so let us take that slice out of the pie. Then, the so called Contract With America says we cannot cut defense, so let us take that slice out of the pie. Then, as we all know, we cannot cut the interest on the debt—we all agree on that—so out comes that piece of the pie. So, lo and behold, what do we have left? All that we have left to cut are: Medicare, State and local grants, and the rest of the Federal Government, all of which total less than half of the Federal budget. We have, therefore, exempted 55 percent of the budget from cuts—Social Security at 22 percent, plus defense at 18 percent, plus net interest at 15 percent—and the $1.5 trillion in budget cuts would have to come from this remaining 45 percent of the budget.

That is all there is. There ''ain't'' any more.

Now, let us look at what this means when we have to take the cuts all from this remaining 45 percent of the budget. Let us take a look at what this means.

How do the States get stuck? How do the States get stuck?

This chart to my left sets out the Federal spending that will be subject to cuts, if one excludes Social Security, defense, and net interest. For fiscal year 1995, the total spending that would be subject to cuts is $693 billion.

This pie represents Federal spending subject to cuts, once defense is taken off, once Social Security is taken off, if it is, and once interest is taken off the table, which it has not been taken off the table. All three of these categories of Federal spending shown on this pie chart will have to be cut across-the-board by 30 percent—by 30 percent—in the year 2002 if we exempt Social Security, defense, and net interest from any cuts and if we enact the tax cuts being called for in the so-called Contract With America. This includes unemployment benefits, veterans' benefits, education programs, the FBI and the Justice Department, including prison construction and operations, the Judiciary and the Courts, infrastructure, health programs, safety programs, health and safety programs for our food and water, aviation safety—including air traffic control—civilian and military retirement, all agriculture programs—all of them—national parks—national parks, I say that to the West in particular—highways, transit, environmental cleanup, NASA, research and development, the NIH, and on and on and on. If we want to exclude any of the spending shown on the pie chart, then everything else will have to suffer an even larger cut than 30 percent. If we exclude Medicare, for example, then the cut that would be required for everything else would rise from 30 percent to a cut of 46 percent. Can you imagine the devastation this would cause throughout the Nation?

Now, let us examine the effects that this level of cuts would have on the States. This is the forum of the States. Let us examine the effects that the cuts would have on the States.

Which States get the sharpest stick by the knife? Which States get the sharpest stick by the knife? And that is some knife, I want to tell you, and they will know when they are stuck with that knife. They are going to bleed.

This chart sets out the total Federal dollars that will go to the top 20 States. I have set aside that chart for the moment. But nevertheless, it would set out the total Federal dollars that would go to the top 20 States in 1995 for 149 grant programs.

The top prize goes to the State of New York, which will receive $22,261,068,000 in Federal grants. That is the total amount of dollars in Federal grants that the State of New York will receive this year. That is 10.8 percent of the total grants for all States.

Second prize goes to California. That State will receive this year $21,661,615,000, or 10.5 percent of the total Federal grants to States for 1995.

Third prize goes to Texas, $12,292,605,000, or 5.9 percent of the total. And these top three are followed by Pennsylvania, $8,232,634,000, or 4 percent; Florida, No. 5, $8,067,751,000, or 3.9 percent.

Ohio is No. 6, with $7,837,289,000, or 3.8 percent. Illinois is next, $6,858,553,000, or 3.3 percent of the total. Michigan, $6,745,979,000, or 3.3 percent; New Jersey, $5,523,542,000, or 2.7 percent; Massachusetts with $5,400,302,000, or 2.6 percent; Louisiana, $5,300,141,000, or 2.6 percent; North Carolina, $4,741,842,000, or 2.3 percent; Georgia, $4,638,039,000, or 2.2 percent; Indiana, $3,945,534,000, or 1.9 percent; Tennessee, $3,889,558,000, or 1.9 percent; Washington, $3,517,731,000, or 1.7 percent; Wisconsin, $3,407,554,000, or 1.6 percent; Missouri, $3,381,960,000, or 1.6 percent; Minnesota, $3,010,222,000, or 1.5 percent; Kentucky, $3,004,724,000, or 1.5 percent.

These are the top 20 States in terms of receiving Federal grants in this fiscal year. I hope that these 20 States—and all other States—recognize that these grants are going to be cut dramatically in the coming years if the balanced budget amendment goes into effect, and those cuts will affect people. Those cuts will affect people in every State throughout the land.

Mr. President, I ask unanimous consent that the table to which I have just referred be printed in the RECORD.

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

FEDERAL DOLLARS TO THE STATES—FISCAL YEAR 1995
FUNDING FOR 149 GRANT PROGRAMS

State	Amount	Percent of total
New York	$22,261,068,000	10.8
California	21,661,615,000	10.5
Texas	12,292,605,000	5.9
Pennsylvania	8,232,634,000	4.0
Florida	8,067,751,000	3.9
Ohio	7,837,289,000	3.8
Illinois	6,858,553,000	3.3
Michigan	6,745,979,000	3.3
New Jersey	5,523,542,000	2.7
Massachusetts	5,400,302,000	2.6
Louisiana	5,300,141,000	2.6
North Carolina	4,741,842,000	2.3
Georgia	4,638,039,000	2.2
Indiana	3,945,534,000	1.9
Tennessee	3,889,558,000	1.9
Washington	3,517,731,000	1.7
Wisconsin	3,407,554,000	1.6
Missouri	3,381,960,000	1.6
Minnesota	3,010,222,000	1.5
Kentucky	3.004,724,000	1.5

Source: OMB, Budget Information for States—Fiscal Year 1995.

Mr. BYRD. Mr. President, now let us explore what these Federal grants to the States consist of. What do the

States use this money for? What do the cuts mean to you, Mr. and Mrs. America, and your children? What do the cuts mean to you and your children?

This next chart sets out what these grants to State and local governments consist of in fiscal year 1995, ''Grants to State and Local Governments in Fiscal Year 1995.'' The largest amount goes to the States for Medicaid—$102 billion, or 44 percent of the total. Then, going counterclockwise on the chart, we see that transportation grants to the States equal $24 billion, or 10 percent of the total. Next, we have income security programs which total $54 billion in grants to the States for such things as AFDC, Section 8 and other housing, school breakfast and lunch programs, and WIC. Then we come to grants for education, training, employment, and social services, which total $35 billion in fiscal year 1995. Finally, there is the category designated ''all other,'' which equals $16 billion, or 7 percent of the total. This category includes grants to the States for community development, health, water infrastructure, disaster assistance, justice assistance, including law enforcement programs such as ''cops on the beat'', and the Federal payment to the District of Columbia.

A large part of all of these programs will obviously have to be picked up by the State and local governments if the balanced budget amendment goes into effect. What will that mean to the budgets of the various States?

I say to the State senators out there—and I once was one—I say to the members of the House of Delegates in West Virginia and the lower houses in other States—and I was once one of those members—what will that mean to your budgets, the budgets of the various States? Will Governors and State legislators have to increase State taxes in order to continue to provide adequate services for these programs that we have been talking about here? According to the Treasury Department they surely—surely—will.

They will have to increase State taxes in order to continue to provide adequate services for these programs.

The chart to my left was prepared based on information provided by the U.S. Treasury Department to the National Governors Association. It is the Treasury Department's opinion that State taxes would have to be raised by the percentages shown on this chart if States are to fully replace the reductions in Federal grants that will occur if the balanced budget amendment goes into effect under the terms I have previously stated.

State legislators in Alabama would have to increase their State taxes by 16.4 percent; Alaska, 9.8 percent; Arizona, 10.4 percent; Arkansas, 16.5 percent; California, 9.2 percent; Colorado, 11.8 percent; Connecticut, 11.2 percent; Delaware, 7.2 percent; District of Columbia, Lord knows how much, but the Treasury Department says 20.4 percent; Florida, 10.2 percent; Georgia, 12 percent; Hawaii, 6.8 percent; Idaho, 9.9 percent; Illinois, 11.6 percent; Indiana, 13.8 percent; Iowa, 10.9 percent; Kansas, 13 percent; Kentucky, 14.5 percent; Louisiana, 27.8 percent; Maine, 17.5 percent; Maryland, 9.9 percent; Massachusetts, 12.6 percent; Michigan, 13.2 percent; Minnesota, 9.4 percent; Mississippi, 20.8 percent; Missouri, 15.5 percent; Montana, 19.8 percent—up go your taxes; Nebraska, 13.3 percent; Nevada, 6.2 percent; New Hampshire, 17.6 percent; New Jersey, 12.7 percent; New Mexico, 12.9 percent; New York, 17.4 percent; North Carolina, the State in which I was born and whose motto is ''to be rather than to seem, 11.1 percent; North Dakota, 19.7 percent; Ohio, 14.4 percent; Oklahoma, 12.4 percent; Oregon, 12.2 percent; Pennsylvania, 12.7 percent; Rhode Island, 21.4 percent; South Carolina, 14.3 percent; South Dakota, 24.7 percent; Tennessee, 19.5 percent; Texas, 14 percent; Utah, 11.4 percent; Vermont, 17.4 percent; Virginia, 8.2 percent; Washington, 8.4 percent; West Virginia, 20.6 percent; Wisconsin, 10.3 percent; and Wyoming, 18.7 percent.

Mr. President, I ask unanimous consent that the table to which I referred showing these tax increases be printed in the RECORD.

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

TAX INCREASES TO OFFSET SPENDING CUTS

State	Required State tax increase (percent)
Alabama	16.4
Alaska	9.8
Arizona	10.4
Arkansas	16.5
California	9.2
Colorado	11.8
Connecticut	11.2
Delaware	7.2
District of Columbia	20.4
Florida	10.2
Georgia	12.0
Hawaii	6.8
Idaho	9.9
Illinois	11.6
Indiana	13.8
Iowa	10.9
Kansas	13.0
Kentucky	14.5
Louisiana	27.8
Maine	17.5
Maryland	9.9
Massachusetts	12.6
Michigan	13.2
Minnesota	9.4
Mississippi	20.8
Missouri	15.5
Montana	19.8
Nebraska	13.3
Nevada	6.2
New Hampshire	17.6
New Jersey	12.7
New Mexico	12.9
New York	17.4
North Carolina	11.1
North Dakota	19.7
Ohio	14.4
Oklahoma	12.4
Oregon	12.2
Pennsylvania	12.7
Rhode Island	21.4
South Carolina	14.3
South Dakota	24.7
Tennessee	19.5
Texas	14.0
Utah	11.4
Vermont	17.4
Virginia	8.2
Washington	8.4
West Virginia	20.6
Wisconsin	10.3
Wyoming	18.7

Source: Department of the Treasury, Jan. 12, 1995.

Mr. BYRD. Mr. President, I hope that my remarks today will have helped to shed light on the devastation which will take place if we do not muster up the courage to say no to the balanced budget amendment now before the Senate. It does not make any difference, Mr. President, if you have a vocabulary of 10,000 words, make it 20,000, make it 30,000. If you cannot say no, then all of that vast vocabulary will not amount to a great deal. We have been elected by the people to come here and to work hard to develop and enact legislation that is in their best interest—not in ours as politicians, not what will get us votes in the next election or the next one or the next one, but in the best interest of the people. Surely we can screw up our courage to the sticking place to stay the course and continue to cut the Federal deficit in responsible doses. We cannot afford to risk the economic security of this Nation by passing this unseen pig in a very large poke.

I remind the Governors, Mr. President, that the devastation to the States, as shown through these charts, is going to happen irrespective of the recently passed, highly touted unfunded mandates legislation. Congress will brush that aside. It only takes a majority vote. That is not binding on the next Congress, not even binding on this one, if Congress chooses to brush it aside. That bill is not going to protect one single State from the costs and responsibility of dealing with their problem absent Federal dollars. If State officials are leaning on the weak reed, the flimsy reed of the unfunded mandates bill, they are badly mistaken. It will be as a straw in a hurricane; as a leaky boat in a tidal wave.

I say to the American people, no one—no one, no one—is going to escape the wrath of the balanced budget mandate.

We cannot run to the mountains and pray that the rocks will fall upon us, put us out of our misery. No one can come to this floor and, in all honesty, tell the people of America that they will escape real pain under the amendment.

Finally, I remind my colleagues that the American people have a right to know what is going to happen to them as a result of the balanced budget amendment, if it is riveted in the Constitution.

A new poll, in fact, underscores the people's demand to know what will happen to them at this time shows overwhelming public support for the ''right to know.''

This poll, released just this morning, Mr. and Mrs. America, my colleagues on the right and on the left, this poll released just this morning by the American Association of Retired Persons and conducted by the Wirthlin Group, shows that support for the ''right to know'' cuts across party lines: 68 percent of the Republicans, 77 percent of the Democrats, and 83 percent of the independents want to know

what will be cut. And they want to know what will be cut before Congress passes a constitutional amendment to balance the budget. Not afterwards. Before.

In addition, 85 percent agree that Social Security should be exempted from the amendment. But under House Joint Resolution 1, Social Security is not exempt. It is on the chopping block no matter what anyone says.

If this amendment is passed, what will Senators say to their constituents? How will Senators explain the fact that, despite the public's desire to know beforehand what cuts will be made, Senators took it upon themselves to substitute their wills, our wills for the will of the people out there. Talk about arrogance. That is the height of arrogance.

So I implore my colleagues to heed the wisdom of the people. Let us tell the American public what is involved here. Tell them and tell them now. That is what the people in the poll want to know. Let us not continue this vow of silence. Let us not close out the sunshine. Let us not pull the shutters on the windows and shut out the scrutiny of the public.

Mr. President, Shakespeare, in ''Timon of Athens'', said it best:

> The devil knew not what he did when he made man politic; he crossed himself by't: and I cannot think but, in the end, the villainies of man will set him clear.

Chief Justice Marshall in McCulloch versus Maryland said:

> We must never forget, that it is a Constitution we are expounding.

Mr. President, if I might add my own modest footnote, we must not forget that it is a Constitution that we are amending.

Mr. President, I am prepared to yield the floor unless a Senator wishes to ask me a question.

I yield the floor.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Utah.

Mr. HATCH. Mr. President, there are very few people in this body who have more respect, in fact I do not think there is anybody who has more respect for the distinguished Senator from West Virginia than I have. I learned early in my Senate career that he is very, very formidable. And he is, I think, one of the people who is the most dedicated to this body and to what the Senate means in the United States of America.

I might mention that I believe that he is as dedicated to the Constitution as anybody I know. And I also believe that he is, without question, without peer with regard to Senate rules and procedure. I have had personal experience of being on the wrong side of the distinguished Senator from West Virginia and I admire him and care a great deal for him. I do not know when I have heard a more interesting set of remarks than he has just given to the Senate this day. I think we should all pay heed to what he has said. I think his comments are important.

But I also think the Senator is wrong. If I did not believe that I would not be out here fighting for a balanced budget amendment. He knows that. And he knows that I believe this very deeply, as he believes his position. And I respect him for his commitment to his position.

He has taken a goodly amount of time, but not enough, perhaps, to explain his position. I think it is critical that the American people see the two sides of this subject and I do not know of anyone in the body who could have articulated his side any better.

I think a lot of this great Senator and, when histories of the Senate are written to include his time here, certainly he will be shown to have played a pivotal and very important role in the history of this institution.

But let me just see if I can respond to some of the things my friend and colleague has said. First of all, the American people are not stupid. They know that this Federal Government is a money eating machine. They know that billions, hundreds of billions of dollars are eaten up right here in Washington, without much care for the American taxpayers.

They also know that we have built the most gargantuan bureaucracy in the history of the world. Keep in mind, our Founding Fathers wanted to have a central Government that was limited, not all-embracing; where the people in the States do not just look to the Federal Government to solve all their problems, but where they solve them for themselves for the most part. The Federal Government as originally intended was to be a limited Government to take care of our national security interests, to do the few commerce things that should be done by the Federal Government: To watch over the public welfare.

I think our Founding Fathers would be absolutely devastated if they saw the state of the Federal Government today. If they saw the domination of the States by the Federal Government that we have going on today, if they saw the way the Federal Government soaks up the public's money today, if they knew—as some argue very eloquently, maybe not as eloquently as my friend from West Virginia—that of all the public welfare money that we spend through the Federal Government, this wonderful stuff we do for the States—when it comes to welfare only about 28 percent of every dollar gets ultimately to the people who need it.

We in the Federal Government act like we know more about what people need than they do, so we study things, we build bureaucracies, we hire sociologists and Ph.D.'s and other specialists and experts and we use up the people's money here like it is going out of style while the people who need it—the people we are supposedly helping—get 28 percent of it. That is what is wrong with a bloated Federal Government. That is what the Founding Fathers were trying to guard against. Avoiding this was the work of Madison and Jefferson and Washington.

I might have a number of others who are maybe not quite as well known, but certainly well known by my friend from West Virginia, who is a great scholar of history, and especially the history of this country. We know the Federal Government right now means a lot to the States because they cannot make a move without its consent.

We also know that if we pass a balanced budget amendment, every dollar will become more valuable. If we pass a balanced budget amendment that stops this continual drop into the abyss of deficit spending, which we have been doing now for 60 years, certainly 26 of the last years in unbalanced budgets, and in recent years because of Great Society programs, these reasonable—reasonable is not the word—this overwhelming desire by everybody to do everything good for everybody in our society.

We now have deficits that, after the turn of the century, are going to be over $300 billion a year, and the interest against the national debt has now become the second highest item in the Federal budget. And it is going up exponentially with compound interest. We all understand compound interest, do we not? The interest just starts to multiply like you cannot believe. If we do not get control over the spending of this all-eating, voracious, money-grubbing Federal Government, if we do not bring it to heel, then all of these gifts and grants to the States that the distinguished Senator has so eloquently spoken about are not going to be worth anything anyway, assuming that we can afford to make any more of them. They are going to look to us and say, ''You people did it to us. You did not have the guts to balance the budget.'' Let me just say this about my friend from West Virginia. He has the guts. I believe in him with regard to his comments that he would balance the budget. He would find ways to do it. I think he would do everything in his power to. I believe that. I have faith that he would do that.

But when he was majority leader, he was not able to do that, not because he did not try. He could not. People in both parties spent us right down the drain. He tried as President pro tempore, certainly one of the most dignified and knowledgeable people in this body, if not the most dignified and knowledgeable. He could not do it then, and neither could I. Neither could the Senator from Illinois. Neither could a lot of us who want to get this tremendously expensive Federal Government under control.

We have reached a point really of no return, that if we do not do what is right now, all this money, these hundreds of billions, trillions of dollars that the distinguished Senator from West Virginia is talking about that go to the States over the years are not going to be worth anything. Then what

happens to those who need health care? What happens to women and children who need women's, infants', and children's programs? What happens to food stamps? Will we be able to pay for them? If so, are they going to be worth anything? We know a lot of them are being picked up by the Mafia in exchange for drugs and booze, and then they make a lot of money cashing in those food stamps at a tremendous cost to the American taxpayer.

Let me tell you something. I enjoyed the comments of the distinguished Senator about magic potions and elixirs and snake oil. I know a lot about those things because I have been watching the Congress for these last 18 years as I have sat here. You talk about snake oil. You talk about magic potions and elixirs. You can find them here every day in budgetary matters because Congress is not willing to do anything about deficits and spending.

I have heard people time after time say this, and they are courageous in standing up here and saying we have to do it; we have to get control of this thing, and we have to balance the budget, and it stops here with us. The problem is for all of my 19 years, it has never stopped once. It is not going to, either, without a mechanism in the Constitution that encourages us to do it.

By the way, this balanced budget amendment does not cut all of these things out. It does not say that we have to balance the budget. We do not have to balance the budget under this amendment if we do not want to. The only difference is instead of playing games here on the floor of the U.S. Senate and in the House with voice votes and a lot of ways of hiding so the American people do not know who is voting to spend all of this money, we have to vote if we do not want to balance the budget. If we are going to have a deficit, we are going to have to give a three-fifths vote to do it. I am not saying that is insurmountable. I have seen debt ceilings lift where we did not need a three-fifths vote, not many. But from this point on, I have to say it will be money in the bank for the American people because they will know who did it to them from this point on, if this amendment is adopted and ratified.

By the way, if we want the President's solution for deficit reduction, which is to increase taxes like he did last year, with the largest tax increase in history, which some have praised here on the floor during this debate, by gosh, we can do that. All we have to have to do that is a constitutional majority here on the floor of the Senate and on the floor of the House.

What does that mean? If we have 51 Senators here, we have a quorum. We could vote on anything, by and large, or should I say most anything, by a majority vote. We could have 26 votes for and 25 against and, by gosh, it passes. With a constitutional majority, you cannot do that. It is not a mere majority of those voting. It is a majority of the whole number of both Houses. You have to have 51 votes in the Senate, 218 in the House.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. HATCH. Sure.

Mr. BUMPERS. I did not utter one word yesterday on the balanced budget amendment. But I want to serve notice that I am going to.

Mr. HATCH. Does the Senator want to do that now? I will be happy to conclude this. I do want to make a few more points.

Mr. BUMPERS. I really apologize for interrupting the Senator. I do want to say I am not so concerned about the requirement of a constitutional 60 percent, three-fifths vote in the Senate to balance the budget. That will almost certainly happen.

I had my staff do a study of all the appropriations bills for fiscal year 1995. Last year, the average vote for all of the 13 appropriations bills was 84.5 votes in the Senate. So I expect it is not going to be too difficult to get 60 votes to override the amendment. But my concern is not that. My concern is the potential damage that can be done by 41 obstreperous ideologues who care more about their ideology than they do the future of the country.

Let us assume we are in a recession headed for a depression, and every economist in the country tells us the only way in the world you can head off massive unemployment and massive social and cultural disaster is for the Government to create job-producing projects. And 41 Senators, far fewer than a majority, can say, ''We don't care what the economists said. We are for a balanced budget. And we are not going to stand for allowing 60 Senators to unbalance this budget.'' So the country goes right into the tank.

That is my real concern. I am interested in the reaction of the Senator.

Mr. HATCH. That is a good question, and I think one deserving of an answer.

First of all, you will never get all the economists to say the Government has to help us solve the employment problem or that make-work jobs are going to get us there.

Mr. BUMPERS. Again, just so we make this point, I am one of the people in this body, along with the distinguished Senator from West Virginia, who remembers well the Depression. I was just a child. We were very poor. There was no snob value in it. Everybody in town was poor. But I can remember.

The reason I still believe in Government is that the Government did some good things and created jobs at the same time. They helped us pave our streets where we choked to death on dust and mud. We lived a block from Main Street, and you could not get there when it rained. I can remember when we got an indoor john for the first time. We were rich. Before that we had a ''two-holer'' out back. Most people just had a ''one-holer.'' We got running water, clean water. People quit having typhoid fever and the farmers got low-interest loans. As a matter of fact, the Government built houses for them.

I could go on about rural electrification, which saved my father's business. He was a small hardware merchant. As a result of rural electrification he was able to sell refrigerators, radios, ranges, all of those things.

So I think Government does some things well. And we could face a time like the Depression again if we have 41 obstreperous Senators saying, ''No; that does not fit with my philosophy.''

The distinguished Presiding Officer comes from a State where we built TVA power, and the people of Tennessee enjoy very low rates as a result of TVA power. I promise you, he does not think Government is all bad, either.

All I am saying is, if those things happen—and they most certainly will at some point—what happens? I do not believe in Government by minority rule. That is what we will have.

Mr. HATCH. Neither do I.

Mr. SIMON addressed the Chair.

Mr. BYRD. Mr. President, may I ask the Senator to yield? He mentioned my name.

Mr. HATCH. Let me yield first to the distinguished Senator from Illinois, and then I will be happy to yield.

Mr. SIMON. Yes. I would like to respond to my friend from Arkansas. First of all, I believe that Government can do very good things. I believe it more than my friend from Utah does. I am for a WPA program right now. I put in the RECORD yesterday an article by a distinguished economist, as well as a couple of other things by other economists, saying that the evidence now is that because of the heavy debt we have, we simply are not responding.

You can remember when the President of the United States, when he first came in, asked us for $15 billion for a jobs program, but because of the deficit, we could not do it. Fred Bertston, a former Assistant Secretary of the Treasury, whom you know, has said, if you had asked him 10 years ago would he be for a constitutional amendment requiring a balanced budget, he would have said absolutely not. He says, ''Now I think it is essential.'' The only way he says you are going to have a response to recessions that is adequate is to build up about a 2-percent surplus, give the President the authority to respond with certain specific programs when unemployment goes above a certain level in various States.

I would say, finally, to my friend from Arkansas, where we have responded is in the extension of unemployment compensation. I went back over several decades when we have extended unemployment compensation. I could find only one time—in 1982—when we did not have more than 60 votes to respond to that. So the reality is that we are frozen by this huge deficit from responding adequately now.

We can build in a system where we can respond much more adequately to recessions than we now do.

Mr. HATCH. If I could add something to that. I agree with the distinguished Senator from Illinois. I am not fighting with the Senator from Arkansas. There is no question, the Government can play a role. Where you have valid social programs, I do not think you would have a rough time getting a three-fifths vote.

We are talking about a bigger picture than that. The force of this amendment is that you have to vote, you have to vote. You are going to have to have a three-fifths vote to increase the deficit as a whole. You are going to have to make priority choices among competing programs. I remember the depression, too. I was born and we lost our home right after I was born. We also did not have indoor facilities for many of the early years of my life. It has been said of me that I never pass a bathroom. Having to walk 100 yards in the mud was no fun for me, and I did that all too often.

But the fact of the matter is that we are talking about a much bigger picture here than any single program. We do not even have to balance the budget under this amendment, but it does point us in the right direction, it does give incentives, and it makes us vote on whether we are going to have deficit spending or whether we are going to increase taxes or whether we are going to do both. I am not saying we cannot do both. I think under strenuous times, such as war, severe depression, or recession, we are going to get the votes.

I also believe if there were obstreperous minorities of 41, they are going to find a rough time at the ballot box if that is what happens. It is the same with those who always want to spend regardless of whether we have the money. They can do it if they get control of the Congress and if they have a constitutional majority vote to raise taxes, but they are going to pay a price at the polls.

Those are just some of the values of this amendment. I said I would yield to my dear friend and colleague from West Virginia. I did not mean to say so much before I yielded.

I yield to the Senator from West Virginia.

Mr. BYRD. I thank the Senator. He always treats me with the utmost courtesy.

Mr. HATCH. Deservedly so.

Mr. BYRD. I heard the Senator say, I believe, that this amendment does not require that the budget needs to be balanced.

Mr. HATCH. It is not required.

Mr. BYRD. This amendment is being sold to the American people as a way to balance the budget. Is that not a bit misleading?

Mr. HATCH. Not at all, because if we required you to balance the budget every year, that would fly in the face of the right to do something when we have exigent and difficult times.

The fact of the matter is, what this amendment always represented itself to be, and what it always will be, is an amendment that says, hey, Members of Congress, the game is over. You are going to have to vote if you want to increase the deficit. You are going to have to vote if you want to increase taxes. Both votes are more significant than a majority vote. And you are going to have to have a three-fifths vote. If you want to increase the deficit, you are going to have to have a constitutional majority to increase taxes.

My personal belief is that it will be much easier to get that three-fifths vote to increase the deficit than to get a constitutional majority to increase taxes. I have no doubt in my mind about that. But both of them point us in the right direction by saying, look, we have to work on making priority choices. We just cannot fund everything anymore, and anybody with any modicum of sense knows that. We cannot fund everything anymore. We have to make priority choices and keep the best programs we can, and we might have to wait for a few years to get some of these less important programs.

Mr. BYRD. I thank the Senator. My friend, the Senator from Utah, is now telling the Senate and the American people that this amendment does not require a balanced budget.

Mr. HATCH. That is right.

Mr. BYRD. That is precisely what this amendment is being sold as. The American people are being told—and I have heard it said by many of the proponents on the floor this week already—that this is the way to balance the budget. ''We have to have something to force us to balance the budget.''

The distinguished Senator from Utah is saying that this amendment does not require a balanced budget. I think we ought to tell the American people that.

Mr. HATCH. I have.

Mr. BYRD. I read this in the first section: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.''

I know there are some loopholes whereby we might vote by three-fifths of a majority of each House, about which I will express myself at another time. But this amendment, we are now being told, does not require a balanced budget.

Let me ask the Senator this: He also said in his statement that we—meaning the Congress—are unwilling to do anything about it—meaning these massive deficits; we are unwilling to take the courageous action that is needed to bring them under control. We are unwilling to do it.

Mr. President, I remind my friend that we in the Congress were willing in 1990, under the agreement that was achieved at the so-called budget summit, where the representatives of the Bush administration sat, and the leadership on both sides of the aisle in this body and the leadership on both sides of the aisle in the other body were present. We agreed on a package that would reduce the deficits over a period of 5 years by something like $482 billion. And then in 1993, working with President Clinton, the Democratic Congress enacted legislation that, over a period of 5 years, reduces the budget deficit by $432 billion. I know it really cuts, because we froze domestic discretionary spending, and because of that package, we are presently operating under a freeze. So we really cut discretionary spending, which includes both defense and domestic.

Mr. President, I say to my friend that when the time came to vote on that package, where was the courage? The Congress, under Democratic control in both Houses, demonstrated the courage to do something about it. We enacted that package, cutting $432 billion over a period of 5 years. We enacted that package, but without the help of a single vote from my friend's side of the aisle. Not one Republican Senator from these 50 States, not one Republican House Member from these 50 States, screwed up the courage to vote for that package, which cuts deficits, over a period of 5 years, by $432 billion.

And so, it was the Democrats in the Senate and in the House who demonstrated a willingness—I refer to the Senator's statement, when he said we are unwilling to do anything about it—it was the Democratic Senators and Democratic House Members under Democratic leadership and working with a Democratic President who demonstrated a willingness to cast a hard vote and to make some hard choices in the 1993 reconciliation bill.

So let it not be said that Congress does not have the courage to do it. I say why do we not do it again? Why do we not do it, I say to my friend? Why do we not do it again?

If the proponents of this amendment have—pardon me for imposing on the time; I will just say this and I will sit down—but if the proponents of this amendment have two-thirds of the vote to adopt this constitutional amendment in the House, and two-thirds of the vote in the Senate to adopt this constitutional amendment, meaning they have 290 votes in the House and 67 votes in the Senate, if they have the votes to adopt this constitutional amendment, why do they not get on with passing bills now? It only takes a majority of each body to pass bills, not two-thirds. Why do we not get on with it now? Why wait 7 years?

Mr. HATCH. Mr. President, I think that is a legitimate question. But keep in mind, both the 1990 bill and the 1993 bill were tax increase bills. And there is only so many times you can increase taxes on the American people.

What this amendment does is—yes, it does not require a balanced budget—it just says that it should be the rule and we have to work to get there. And if we do not want to get there, we are going

to have to vote not to and the American people will know who did it to them. That is the difference. It will take a supermajority vote of three-fifths, if you want to increase spending beyond our revenues, and a constitutional majority, no less than 51 in the Senate and no less than 218 in the House, if you want to increase taxes.

And I have to tell you, one of the reasons we believe this has to happen is because for the last 26 years we have not reached a balanced budget with all the tax increases we have had.

I remember back in 1982, when we increased taxes under Reagan, on the assumption that for every dollar in increased taxes we get $2 in deficit reduction. We increased taxes and we spent $1.32 more for every dollar, and now we are spending almost $1.90 more for every dollar we increased in taxes.

Now I know the distinguished Senator from West Virginia, if he had his way would be able to do this, to balance the budget, and I would help him; at least I would try. I might not want to increase taxes to do it, but I would help him balance the budget.

But, I have to say, he is singular in getting it done. Now, I respect him. And I have no qualms about saying I think he would do that if he could. If he was a dictator or even a Talleyrand, he might get it done. But he is one of 100, in fact, one of 535. And it has not been done. And it is not going to be done, not without some mechanism in the Constitution to give us the incentives to do it.

Now, does this amendment guarantee we are going to go to a balanced budget? I think over time it does, because I think the American people are going to know who is doing it to them because we will be standing up and voting, rather than playing games around here.

Does the Senator have a question?

Mr. SIMON. Mr. President, I would simply like to respond briefly to my friend from West Virginia—and he is my friend and I have great respect for him.

Mr. HATCH. Mine, too.

Mr. SIMON. In what he has had to say.

Let me, in response to his last question to my colleague from Utah, say my colleague from Utah and I do not agree on how we ought to balance the budget. We have some strong philosophical differences, as Senator BYRD knows. We do agree, however, that we have to do it, and we need the discipline of a constitutional amendment to force us to do it.

I would differ also with respect to my friend when he talks about the heavy tax burden. I am not suggesting that we are going to solve this primarily through taxes. I do not think that is the case. I would add, of the 24 major industrial nations we are 24th in the percentage of our income that goes for taxation. We do not have a value-added tax. Most of the countries in Western Europe have that. We have the lowest tax on a gallon of gasoline of any country outside of Saudi Arabia; the lowest taxes on a package of cigarettes, and you could go on and mention other things. But, having said that, there is no question we are going to primarily do this through restraining growth in spending.

And the Senator is right, I say to Senator BYRD, when he says we are going to have to make hard choices.

But it is very interesting—and we were just given at the Democratic caucus today a poll by the Wirthlin group on the balanced budget amendment—79 percent of the people favor a balanced budget amendment and 53 percent of them believe they are going to have to sacrifice in order to achieve it. They are willing to, the American public is willing to.

I take the choice of sacrificing a little bit so my three grandchildren can have a better future. And I do not have a difficult time making that choice at all, and I do not think the American people do.

Mr. President, I see my colleague on his feet, and I am pleased to yield to my distinguished colleague.

Mr. HATCH. I believe I still have the floor.

Mr. SIMON. I am sorry. I thought my colleague had yielded the floor.

Mr. HATCH. No, I am still retaining my right to the floor, but I am happy to yield to my friend.

Mr. BYRD. I am trying to remember precisely how the Senator said it when he spoke of his children and grandchildren.

Mr. SIMON. Mr. President, I said what I am required to do, if we pass this, is to sacrifice a little bit myself so they can have a better future.

The GAO says if we continue down the present path we are going to have a gradual declining standard of living. But if we, by the end of the century or 2001 in their original study, now it will be postponed to 2002, have a balanced budget by the year 2020, the average American will have, in inflation adjusted terms, an increase in the standard of living of 36 percent. That is a huge increase for those three grandchildren.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. I am happy to yield.

Mr. BYRD. I ask unanimous consent that I may engage in this colloquy, with the Senator from Utah retaining his right to the floor.

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

Mr. BYRD. Mr. President, the distinguished Senator from Illinois has made a startling revelation. And I love him. I think he is Mr. Fair and Square around here, and I believe he is Mr. Fair and Square. He always has a smiling face and a shining countenance and that upbeat spirit about him that is so infectious. And I am going to miss him.

Mr. SIMON. I can see how you got elected in West Virginia, Senator BYRD.

Mr. BYRD. Well, that goes back a long way, I say to the Senator.

I believe he said that, ''If this amendment is adopted, then I would be willing to sacrifice so that my children and grandchildren can have a better future.''

Is he also saying that if this amendment is not adopted, he is unwilling to sacrifice for his children and grandchildren?

I say, Mr. President, we need to sacrifice for our children and grandchildren, whether or not this amendment is adopted. And we do not need an additional bit of print in the Constitution to fortify us with the courage and the discipline and the will to take a strong stand now in order to sacrifice for our country or our children and our grandchildren.

Mr. President, if I do not have the courage now to take a strong stand, if I am unwilling now to take a strong stand on behalf of my children and grandchildren and their children, there is no amount of ink that can put into that Constitution that will give me any more backbone, any more spine, any more courage, any more strength of will than I already have. It just cannot be done. I say that with all due respect to my friend.

He may wish to comment on my remarks.

I ask that the Senator from Utah yield for that purpose.

Mr. HATCH. I am happy to yield for that purpose.

Mr. SIMON. I am willing to sacrifice right now, and I know the Senator from West Virginia and the Senator from Utah are, too. Unfortunately, we have 26 years in a row of history that, as a body, we have rarely been willing to do it.

Oh, in 1993, you and I voted for what Senator BOB KERREY called a modest step toward reducing the deficit. I was pleased to do that.

Mr. BYRD. Modest enough. It did not get a single vote on the other side of the aisle in either House.

Mr. SIMON. The Senator is correct. Economists are virtually unanimous in saying that that was a good thing. It is to the credit of President Clinton that we did that.

I think history clearly shows we need outside discipline. We can even say it is a little more print in the paper of the Constitution. But as I said yesterday—and I think our Senator from Tennessee was presiding then, too—I said all of us went right over there and we took but one oath, to defend the Constitution. That has meaning for Senators. And I think that is true for any Senator. I think we are going to live by that.

Mr. BYRD. Mr. President, before the Senator adds those points, and if the Senator from Utah is willing to yield, the distinguished Senator referred to the oath. I have taken the oath 13 times in 48 years: In the West Virginia House of Delegates, the West Virginia Senate, the United States House of

Representatives and in the United States Senate. I know what it means.

Mr. President, we should be willing to bite the bullet now. We have not been 26 years in the building of this colossal—these deficits to the extent that they are triple-digit billion dollar deficits. For 182 years we ran up something like $1 trillion debt.

Then when Mr. Reagan came into office—he was in office 8 years, Mr. Bush 4 years—we more than tripled that debt. And as my grandson used to say, ''You know what,'' I helped Mr. Reagan to triple that debt. Because I voted for his tax cut in 1981. And I have regretted it. I voted for his massive military buildup. I urged upon him that he could not balance the budget, mount such a massive defense buildup, and cut taxes in 3 successive years, 5 percent the first year, 10 percent the next year and 10 percent the third year. I urged upon him that he wait until after the first year or after the second year.

And as the minority leader at that time, I offered an amendment on this floor to require that we not have 3 years of successive tax cuts all in one bill; that, instead, we have 2 years and then wait and see what was happening to the economy, the deficits and so on, before we institute another, the third tax cut. But President Reagan would not listen. I voted with Mr. Reagan. I supported him on that tax cut because many West Virginians told me to give him a chance. I supported him on the defense buildup.

As to those triple-digit billion-dollar deficits, we never had one before Mr. Reagan was in office. Never did we have one triple-digit billion-dollar deficit. Never. They all started under his administration. I know a lot of people blame Congress for the deficits, but I will show sometime during the next few days that going back 45 years the total accumulated appropriations over the period of 45 years under the various Presidents, the accumulated appropriations are less than the accumulated budget requests submitted by those Presidents to the Congresses during that period of time. The figures will not lie. Liars can figure, but figures will not lie. The laws of mathematics do not change, whether it is the old math or the new math.

I say to my friend, this talk about needing something in the Constitution to force Members to discipline Members, to force Members to take the positions to make the tough votes and the tough choices. Something to force us. What are we, children? Mr. President, we will dodge that bullet when it comes because under this amendment, do you know who will enforce this balanced budget amendment? Congress will, according to this amendment language. Congress. Congress will enforce it. The same Congress which lacks the discipline now, to use the Senator's words, in essence.

I was thinking of Darwin and his theory of the survival of the fittest. I do not think that the men and women who come to this body in 2002, 2003, or 2004 will have had sufficient additional time to benefit from Darwin's theory anymore than we, with our ancestors stretching back over thousands upon thousands of years, have already benefited. Discipline cannot be put into the bloodstream of man by a needle. He cannot be inoculated with faith and discipline and courage, backbone and spine. It has to be inside him to begin with. I say that with the greatest respect for my friend, the happy warrior, the happy warrior, from the great State of Illinois.

Mr. HATCH. Mr. President, if I could take back my time.

Mr. SIMON. Mr. President, the Senator from Utah has the floor and when he is through I want to get the floor just to respond very briefly.

Mr. HATCH. Without losing the right to the floor, take that time to do so.

Mr. SIMON. Mr. President, let me say that there is no absolute guarantee that this will work. I think what we can virtually guarantee is if we do not pass this, we are continuing down the same slippery slope and we are not going to get things done.

In 1981 I was in the House. I was not in the Senate. But in the House we ended up with a bidding war between President Reagan and the Democrats on a tax cut. I voted against both the Reagan tax cut and the Democratic tax cut because the numbers just did not add up. We were saying by 1984 we will have a balanced budget. Third grade arithmetic told you that was not true.

Just a few other quick comments. One is the details of where we are heading. Concord Coalition put together a package. By the time this debate is over we will have a rough idea. One way to do it, for example, is to live within the limits that we have established right now through 1998, and then make some policy decisions that would combine the total of the Bush package, I think it was 1991, and the Clinton package, 1993. Not that onerous. People are being told, ''This is going to hit every group.'' Senior citizens are being told it will come out of your Social Security.

I had a man this morning, a hospital executive, tell me, We have been told $500 billion of this is going to come out of hospitals. Every group is being told that. It just is not true.

Second, I say to my friend, who is, I think—and I am not one to exaggerate on the floor of the Senate, even though we all have a propensity to do that occasionally—I think it is correct to say that there has been no Senator in the history of the Senate who has been as much of a historian as ROBERT BYRD. His sweeping knowledge of history is impressive. I have written a few books in the field of history, but I do not pretend to have his knowledge of history.

The only historian who would even come close would be Albert Beveridge who served Indiana around the turn of the century who did a three volume biography of Abraham Lincoln. But he had nowhere near the comprehensive knowledge of Senator BYRD.

But it was interesting to me this great historian did not get into the economic history of nations, and that economic history is very clear. As nations pile up debt, they keep on piling up debt, and what do they do eventually? They monetize the debt. They start the printing presses rolling. That is the history of nations, and we cannot avoid that.

Now, my friend from West Virginia had all what is going to happen to the various States. What is going to happen in those States if we do not pass the balanced budget amendment?

Mr. BYRD. Will the Senator yield, with the indulgence of the Senator from Utah? Why do we not do it now? We need two-thirds vote in each body to adopt this amendment. Why do we not just use a majority now to take whatever actions are necessary to continue to bring that budget into balance? It only takes a majority. Why wait 7 years? Darwin's theory of natural selection will not make me any more courageous in 7 years or 9 years or 90 years. I have only the courage that God gave me and the courage and the will and the determination and the faith that were inculcated into me by the people who raised me and by the genes that my father and mother and their ancestors gave me. That Constitution will not give me any more courage. Let us do it now. Why not now? Why not start now?

Mr. SIMON. I say to my friend from West Virginia, if we had 51 ROBERT BYRDs in the U.S. Senate, we could do that. We do not. That is the simple reality.

Mr. BYRD. No, no, I say to the Senator, you are flattering me now. We have lots of men and women in this Senate who have the courage to do it now. It is not just the ROBERT BYRDs. We have enough men and women in the Senate to do it now. Let us be honest with those people out there who are watching through that electronic eye. We have just heard our friend on the other side of the aisle say this constitutional amendment does not require a balanced budget. Let us start now.

Mr. HATCH. If I could——

Mr. SIMON. I do have some other points, but I will make them on some other occasion and I return the floor to my colleague from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BYRD. Mr. President, I thank both Senators.

Mr. HATCH. Mr. President, I thank both sides. I think it has been an interesting colloquy between my two colleagues. I agree with the distinguished Senator, why do we not do it now? This is why we are going to get it done because we are going to put a mechanism in the Constitution to help us to do it, and that is what this requires.

Let me also say this—President Reagan, of course, cannot defend himself at this particular point—but I do not think anybody should fail to note that when John F. Kennedy was President of the United States back in 1962, the military budget was 49 percent of the total Federal budget. The highest it ever got under Reagan, as I recall, was 26 or 27 percent of the total Federal budget, about half of what John F. Kennedy was willing to spend and the Congress was willing to spend for the military at that time. Forty-nine percent.

How is it that when Reagan helped to increase military spending that brought down the Iron Curtain and ended the cold war with only 26 percent of the budget, that it was he who caused this grand spending boom when we used to spend 49 percent because the national security interests of this country were the single most important interests of the Federal Government?

I will tell you why. Because John F. Kennedy cut taxes 10 percent and the economy boomed, because more people were making more money, paying more taxes, more businesses were created, more jobs were created, more people were working. John F. Kennedy cut taxes, spent 49 percent of the Federal budget on the military, and we had a very low deficit at that time.

He was succeeded by Lyndon Johnson who decided he was going to take care of everybody, and he came up with what was called the Great Society programs, and from those programs we have a proliferation of Federal Government control over all of our lives and a proliferation of spending where now 70 percent of this Federal budget is entitlement spending. That means it goes up and up and up automatically and nobody stops them.

In defense of President Reagan, and I do not mean to get too much into this because I think people who really understand economics and understand the history realize that he was not the one who created these huge deficits. Certainly tax cuts sometimes wrongfully given can, over the short term cause us to have less money in the budget. But over the long term, they generally produce more jobs, more businesses, more people employed, more people working, more people paying into the system, more revenues to the Federal Government.

By the way, the Reagan tax cuts created 9 years of economic expansion, the longest peacetime economic expansion in the history of the country, and it was the tax cut that did it. But what was not said is that in order to get his tax cut in 1982 and his tax cut of marginal tax rates in 1986, he had to agree to all kinds of entitlement expenditures.

Today, entitlements are 70 percent of the budget. They were not that during the time of President Kennedy; 50 percent of the budget was for the military, and that is not an entitlement program. It is important, and the distinguished Senator from West Virginia made it clear that it was important.

Constitutionally, it is Congress which must balance the budget. Even if President Reagan pushed some of the ideas enacted at that time and people on the other side of the aisle love to blame him for it, it was Congress that passed these bills, according to the Constitution it is Congress that controls the purse strings. Congress cannot avoid that responsibility. It was Congress that kept increasing spending. It was Congress that came up with more and more Federal programs.

Look, I used to be chairman of the Labor Committee. My ranking member was none other than Senator KENNEDY. When I became chairman of that committee, it was the most liberal committee in the Congress. There were between 2,000 and 3,000 Federal programs created by that committee that are currently in existence. Imagine that. And that is just one committee in Congress.

Constitutionally, it is our responsibility, not the President's, although I think he or she has a responsibility, too, to balance the budget.

Reagan's tax cuts raised revenues during those years—raised $1 trillion during the Reagan administration—$1 trillion in additional tax revenues. Under Reagan, 20 million new jobs were created. But Congress spent $1.4 trillion during that same time.

Had we stuck with the tax cuts and not had Congress dictate the increased spending side of those tax bills, we would not have nearly the problems we have today, although we still would have problems because of the entitlement programs.

This body is gutless when it comes to doing anything about entitlement programs, and with good cause, because unless you have Presidential leadership and congressional consensus to do something about them, then in the next election, accusations will be made that those who talked about doing something about entitlement programs are trying to do away with them.

So it is going to take Presidential leadership and congressional leadership. And what we do with the balanced budget amendment is we get a mechanism in place that encourages and creates the incentives for balancing the budget rather than spending more and more and forces Congress make priority choices among competing programs in order to do so.

We have runaway spending in this country. I appreciate the distinguished Senator from West Virginia saying why he thinks we should not do it now. I believe he probably would act to balance the budget. But he is one of a very few in the whole Congress who, if he would, would actually do it without a balanced budget amendment. But if as he argues we can do it now, and we do not need the increased pressure of a constitutional mandate, then why have we failed up until now? Then why have we not balanced the budget for the last 26 years? Why have we not?

My friend from West Virginia has been one of the leaders in the Senate. He was both majority and minority leader. He had tremendous power during that time and still does without being the leader of the Senate. During those years, I know he worked hard to try to do it and he could not with his own side of the floor. And I have to say it is not just Democrats that have caused this; Republicans have, too, because the incentives are not there in the Constitution right now. Jefferson saw the problem. But he never thought that we would reach the state of morass that we are in today where nobody is willing to fight to resolve budgetary problems—or I should not say nobody. I should say where the majority are unwilling to do what is in the best interests of this country.

We have a destructive welfare system. Everybody says we have to do something about it. Maybe we will this year. On the other hand, should we not have to make priority choices there as well?

We have an antisavings Tax Code. It discourages savings. Maybe we will come up with a Tax Code that will work, where people do not feel nearly as badly about paying their taxes as they do today with the oppressive antisaving Tax Code that we have.

We have a Washington bureaucracy that is out of control, partly built because we have so many of these programs, not all of which are needed but all of which are well intentioned, I will acknowledge that, but not all of which are needed and certainly not all of which rise to the same dignity as the important programs do. But they exist and get funding because we do not have to make priority choices among competing programs.

People in this last election said the old ways are not working. The old ways are not working. This country is not working the way it should. And for the first time in 40 years, they allowed the Republicans the privilege of being in control of the House of Representatives, and they gave us the privilege once again to be at least the majority in the Senate.

Now, we have no illusions about having complete control here. If you look at ideology, a majority in the Senate are liberal, at least 51 of the Senators are what you would call primarily liberal, who do not want to cut anything; who do not want to do anything to balance the budget, at least in the sense of spending cuts. They will increase taxes. They will do that until the American people scream, and they are screaming now.

(Mrs. HUTCHISON assumed the chair.)

Mr. HATCH. In the House of Representatives, it may be about the same. So nobody has any illusions that just because the Republicans have taken control, we can do whatever we want to do. We cannot. As a matter of fact, the

American people did not mean this to be a mere Republican revolution. They said, look, we are willing to try anything to get spending under control. And the polls do show that they believe Republicans will do a better job of getting spending under control.

I believe one of the reasons why they believe that is a vast majority of Republicans in both bodies, almost every Republican in the House, almost every Republican in the Senate, is willing to vote for this balanced budget amendment and they knew it would be one of the first things we would bring up.

But having said that, there were 72 courageous Democrats in the House of Representatives who voted for this amendment who are probably more moderate to liberal than most Republicans who voted to pass the balanced budget tax limitation constitutional amendment.

That amendment is what we are debating right now. For the first time in the history of the country, the House of Representatives has voted to put into the Constitution a fiscal mechanism that will help us to reach a balanced budget. And I have to say we need about 15 to 17 courageous Democrats in the Senate or it will not pass by a two-thirds vote. All we need is, let us say, 17. That means 30 of them can vote against it, if they want to, and we can still pass it.

The fact is that is what we need. We just need a few Democrats to stand up here, like a few stood up in the House. They were the minority of the Democrats in the House. Let me tell you, those who do stand up are going to be heroes to me because there is tremendous pressure on them to keep the old order, where we can keep spending and reelecting ourselves, where we can tax and spend and reelect.

So whoever votes with us from the Democratic side of the aisle is going to be a hero to me, I have to tell you. And there are some real heroes, not the least of whom is the distinguished Senator from Illinois. We do differ ideologically. He is liberal; I am conservative. But he also acknowledges that something has to be done. I praise him for it, and I admire him for it because it is not easy when so few on his side are willing to do anything about this.

If this goes down to defeat, I do not think the American people are ever going to get over it because for the first time in history, the House of Representatives has voted for a balanced budget amendment. What a historic vote that was. Would it not be awful if the Senate, which was the first body to ever vote for a balanced budget tax limitation amendment, the one we brought to the floor in 1982, when I was chairman of the Constitution Subcommittee, would it not be awful if the Senate voted it down because we cannot find 17 Democrats to vote with us? Would it not be awful? Would not people on the other side of the floor feel terrible about that? I think they would at the polls, because I do not think the American people are going to forget it.

This is the most important constitutional issue, it seems to me, aside from the Religious Freedom Restoration Act, that we passed a few years ago overwhelmingly, on which this body is going to vote in the lifetime of the Members of this body. There are other extremely important constitutional issues that may rise to this dignity, but this is the most important of all of them because we are talking about the future of the country now. And when I see anybody coming to the floor and saying look at all these programs we are going to lose if we pass the balanced budget amendment, I see an argument for more of the same—more of the same of the last 26 years. If we will not do anything we will face it in the future. Sometime we will have to get this under control.

I know there is sincerity among some who make those arguments, but history does not back it up. History does not back it up and our experience does not back it up. I have heard talk about our children's future. Let me tell you, nobody is more concerned about our children's future than those of us who have a lot of children and grandchildren. Elaine and I have 6 children, and we will have our 15th grandchild here in another month or two. I have to tell you, we love each and every one of them, and I am worried that their future is going fast. We are not giving them the future we had because we are spending their legacy away, and we are not willing to do anything about it.

And yet we keep getting these same old tired arguments against doing anything. My gosh, why do we not do it now? I have heard those same arguments ever since I have been here. And I have no doubt of the sincerity of the distinguished Senator from West Virginia. But it is amazing to me, if you make the correlation of those who say, ''Let us do it now, we do not need a balanced budget amendment,'' why it is almost everybody who is going to vote against it who says we do not need a constitutional directive to balance the budget. And most of them have been here as long as I have, or at least a pretty lengthy time in the Senate, and never once have we balanced the budget.

I think the American people have our number. The American dream is fading for our children. We have to make the right decisions now to keep it alive for them. We cannot keep accepting these same old arguments for going on as we have in the past. How can it be said that every State is going to have to increase its taxes because we pass a balanced budget constitutional amendment—as if the States do not each have the ability to respond to a new fiscal environment in their own way. No, Congress is going to have to make priority choices among competing programs for the first time in the time I have served here, 19 years. They are going to have to make the tough choices or they are going to have to stand up and vote not to. If they do, I think they are going to be thrown out of office in the next election, which is what should happen to those of us who do not do what is right. That is the ultimate and real enforcement, and it will work.

We have to cut the waste. We have to cut the fat, and there is plenty. Anybody who denies or doubts that we have waste and fat in this budget just has not looked. They have not looked at the budget. They have not looked at what the Federal Government has done.

Do not tell me we have to continue to pour everything through this bureaucracy when we get only 28 percent back out. Why do we not keep that money at home and get 100 percent for the people, the poor, the sick and elderly, and those who have difficulties in our society? Why launder it through the Federal Government? We are not the all-seeing eye, nor are we always right in our remedies. The Founding Fathers believed the Government closest to the people is better able to deal with such problems. It is a true belief, because people lose touch within this beltway.

The same old order cannot continue. We have to do what is right for this society. This balanced budget amendment will give us the incentives to do so. And I agree with the Senator from Illinois, we take an oath to uphold that Constitution. I think most all of us take that oath very seriously. If this becomes a part of the Constitution, and I believe it will, then I believe we will take it seriously and I believe we will make great inroads over the next 7 years to do what is right for this country.

It may be the only way to save this country from going into a total depression sometime in the future when our money becomes worthless, and when Social Security becomes worthless, and when our children's programs become worthless, and when all of these other programs we have been talking about become worthless as we continued to spend this country blind. If our Government or economy is destroyed by our current profligacy, we will not have any—any—of the programs we have been talking about, and which the opponents of the balanced budget amendment say will be cut if we balance the budget.

As you know, I say to my friend here today, I admire my friend from West Virginia. I admire the way he feels. I admire the way he gives extraordinary time to the Senate and why he is willing to stand out here and take the guff of Senators. He is willing to stand out here and fight for what he believes in.

He is a quintessential Senator. I believe that. But he is wrong. He is wrong to think we can continue to go the way we are going and still solve the problems of this country. As sincere as people are, we can be sincerely wrong.

Even Paul held the coats of the people who killed Stephen, the first Christian martyr, thinking he was right. He was sincerely wrong and he had to admit it later when he was blinded on the way to Damascus.

And the voice said: ''Saul, Saul, why persecutest thou me?'' And he just stopped. And the minute Paul knew with whom he was talking he said, ''Lord, what wilt thou have me to do?'' And from that minute on he admitted he was wrong and went to do the job.

We in Congress have to admit we have been wrong, spending this country into bankruptcy and this balanced budget amendment is one of the first steps we should take to right that wrong.

The unfunded mandates legislation is one of the other steps to our redemption. We have to quit loading up the State and local governments with ridiculous unfunded mandates that take away their rights of self-determination and so often actually do not even work. I think the unfunded mandates legislation we recently approved will work. Although I agree with the distinguished Senator from West Virginia, it only takes 51 percent, a majority vote to change it. But I think we are going to be loath to change it now that we have put it in place.

I see the distinguished Senator from Tennessee is here. I know he wants to speak to this matter. There is a lot more I would like to say but I will let it go at this. I just hope everybody in this body recognizes what an important, significant, and historic vote this is going to be. I hope we vote down any and all attempts to change it because this is the amendment. This is our last, best chance. This is the chance to put some fiscal discipline that works into the Constitution, that will help us to do the job that we have not done before because we have not had a constitutional mandate to do it. It is a bipartisan, Democrat and Republican consensus amendment, the best we can do. It is not perfect but it is the most perfect thing we can do and I hope everybody realizes it. Most important, I hope our folks out there throughout this country realize that they have a role to play constitutionally. That role is to write and call and get with your Senators and get them to vote for this. We all know who needs to vote for it.

With that I yield the floor for now and will speak more later.

HOUSE JOINT RESOLUTION 1, THE BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. INOUYE. Madam President, as my constituents know, I do not give speeches on every issue addressed by the U.S. Senate. However, I felt that on a matter as significant to the American people as an amendment to United States Constitution, I had to share my thoughts. In no way is my speech delivered to stall these proceedings. I wish to address the Senate because I am genuinely distressed about several serious deficiencies in the balanced budget amendment measure now before the U.S. Senate, not the least of which is the fact that the American public, ourselves included, does not have a full and fair understanding of how this balanced budget amendment will truly impact our lives.

While the proponents tell us that they will balance the budget, while cutting taxes, increasing defense spending and protecting Social Security, we are also told that to meet all these goals, the Congress will have to cut spending by $1.5 trillion before the year 2002. In addition, estimates by the Congressional Budget Office indicate that if Social Security and defense spending are not cut, all other programs must be cut across the board by 30 percent. I believe the people of America should be told in advance where these cuts will occur.

The new leadership of the U.S. Senate is determined to pass this measure almost as expeditiously as the House of Representatives. With only 2 days of consideration on the House floor on House Joint Resolution 1, debate was, at best, limited. On a matter of this significance, the least we can do is not only fully acquaint ourselves with the matter before us and its effects, but also provide the same information to the citizens of this Nation so they may know its impact on their lives. This should not be part of a contest to see who can pass a bill faster.

The proponents of this measure seem to wish to move with undue haste, without responsibility for the consequences of their actions, only to let the American people and the States unknowingly deal with the unpleasant realities at a later date. Our constituents have a right to know and understand the real impact of this balanced budget amendment.

The concept of a balanced budget amendment to the Constitution is nothing new to this body. In 1980, the Senate Judiciary Committee rejected the proposed constitutional amendment by a vote of 9 to 8. In 1982, the U.S. Senate actually passed a balanced budget amendment. That measure, Senate Joint Resolution 58, would have only allowed deficit spending or an increase in the Nation's debt ceiling upon a three-fifths vote of the Congress. Though passed by the Senate, Senate Joint Resolution 58 died in the House of Representatives.

Many of us in the U.S. Senate consider the balanced budget amendment before us with deep concern because underlying the measure is an implication or suggestion that we who are elected by our people are incapable of doing our work. I believe even a cursory study and analysis of the past 2 years will clearly assure the citizens of our Nation that we are capable of and are, in fact, doing our job.

Our work together with the Clinton administration has produced significant accomplishments over the last 2 years that no one can dispute. Over 5.6 million new jobs have been created. The unemployment rate has dropped from 7.3 percent in 1992 to 5.4 percent as of December 1994, the lowest rate in over 4 years. Inflation has dropped to 2.7 percent, the lowest since 1986. Under the Omnibus Budget Reconciliation Act passed by the Congress in 1993, the Federal deficit has been reduced by $87 billion between 1992 and 1994. This is the first time the deficit has dropped 2 years in a row in over 20 years, and it is the largest 2-year drop in history. The deficit is projected to fall another $27 billion in 1995. Many of us, together with eminent economists, are convinced that the path we have laid will further decrease our deficit and improve our economy.

The United States Constitution is a document of permanency. If sets forth the basic principles, ideals and philosophy of this country and our society. It is not a document which should be tinkered with lightly. The Constitution of this great Nation was signed on September 17, 1787. Delaware was the first State to ratify the document on October 7, 1787. Other States ratified the Constitution during the course of 1788, and the Constitution took effect on September 13, 1788. There are currently 26 amendments to the Constitution. Since the 1st Congress in 1789, 10,736 Constitutional amendments have been proposed in the Congress. We have been rightfully very reluctant to pass Constitutional amendments.

Measures of this magnitude and import must be approached with great care and consideration. It took the U.S. Congress somewhere on the order of 30 years to pass Medicare legislation. Medicare was first debated in Congress in the 1930's with the social reforms of the New Deal. Medicare was not considered seriously again until the mid 1950's. In 1960 Senator John F. Kennedy featured Medicare in his Presidential campaign. However, Medicare was not enacted by the Congress until 1965. Congressional debate to end the Vietnam conflict began in the early 1960's, but the Congress did not set a date certain for the end of the war until 1973—the same year the War Powers Act was passed. The Family and Medical Leave Act was first introduced in the 99th Congress, vetoed by President Bush in both the 101st and 102d Congresses, and finally signed into law by President Clinton in the opening days of the 103d Congress. The Supreme Court's decision in Brown versus Board of Education of Topeka, ordering the racial desegregation of our Nation's schools, was rendered on May 31, 1955. However, not until the Civil Rights Act of 1964 did the Congress give the Attorney General the power to initiate civil actions to achieve desegregation. The Civil Rights Act of 1964 was debated in the Senate for 83 days.

Each of these measures was fully debated in both Houses of the Congress, and they were not even amendments to the Constitution of the United States. I submit that a proposed constitutional amendment demands a significantly higher level of scrutiny and debate

wherein the American people are fully informed of all of the amendment's implications.

Every household in our Nation tries its best to balance its individual family budget. However, in contemporary times this task is much more difficult than that faced by my grandparents. Now we have an innovation known as the credit care that allows us to buy now and pay later. As of November 1994, our citizens' revolving loan debt was $334.4 billion.

Living with debt is part of the economy of every country. Such debt is generally categorized into the types of accounts: operating expenses and capital improvements. It is good fiscal policy for a country to work to keep operating expenses current. Similarly, the American family should try to stay current in its everyday expenses. On the other hand, very few Americans would be included to purchase a home with cash. That home is acquired with credit in the form of a mortgage loan. This is not so different from a government obtaining financing to fund capital improvements. Presently, the total amount of our Nation's home mortgage debt is $3.3 trillion. The supporters of this balanced budget amendment proposes to consider both operating expenses and capital improvements as one account, lumped together as debt. Economists will tell you that this is not sound fiscal policy.

It is a relatively simple matter when balancing the family budget to be fully cognizant of what must be cut and what operational costs are essential and cannot be curtailed. Unlike this household budget balancing, the balanced budget amendment currently before the Senate intentionally and almost deliberately does not inform the American public of what is going to be done to achieve the goal of a balanced Federal budget. The American people have a right to know this information.

Merely telling our constituents that we will increase defense spending, lower taxes, not touch Social Security, and hope that the economy is going to improve is simply not sufficient. In July of 1981, similar words were uttered by President Ronald Reagan, and the Congress adopted ''Reaganomics,'' also known as supply side economics. When this process began in July 1981, the Federal budget deficit amounted to $79 billion. When Ronald Reagan left office in 1988, the Federal deficit had increased to $155 billion. Under the Republican administration's budget policies, the upward trend continued through George Bush's administration with the deficit topping out at $290 billion in 1992. Proponents of this balanced budget amendment refuse to acknowledge that the problems we address today began in July 1981.

I believe that the American people have the right to know exactly how the Congress plans to put this balanced budget amendment to work. For example, healthcare costs currently amount to 14 percent of Federal spending. Every study indicates that by 1988, this figure will increase dramatically such that 24 percent of Federal spending will be on health care. One-half of that amount will be spent on Medicare alone. I would think that the people of this country would like to know how

[1] For all calculations, a balanced budget is achieved by FY 2002 through across-the-board spending cuts that exclude defense and social security.

duced or eliminated? How will highway funds, Aid to Families With Dependent Children, job training and veterans' benefits, and other grants to States be impacted? Further, if States felt that these programs were essential, I would think that our constituents would want to know just how much it would cost them as State taxpayers to continue these programs.

I am also deeply concerned about the provision in House Joint Resolution 1 which provides that the balanced budget requirement may be waived if there is a declaration of war, or the United States is engaged in military conflict which threatens the national security of our country.

Would the United States' humanitarian mission in Somalia come within this provision? What about United States peacekeeping efforts in Bosnia? What about Haiti, Desert Storm, Vietnam and Korea? Some would argue that the Korean war was a police action, not the result of a declaration of war, therefore, not a war.

Further, how will we deal with the financial impact of natural disasters over which we have no control—Hurricanes Andrew, Iniki and Omar, floods in the Midwest and California, and the earthquakes in California, to name a few.

The American people deserve to know the answers to these questions.

At the request of the National Governors' Association, the U.S. Department of the Treasury recently prepared a report on the likely effects on the States of a balanced budget amendment alone, as well as accompanied by the tax reductions proposed by the Republican Contract With America. As proposed by the proponents of the balanced budget amendment, the Treasury Department assumed that there would be no cuts to defense or Social Security, not tax increases, and that deficit reduction would be achieved by the year 2002.

According to the Treasury Department, even if phased in gradually between now and the year 2002, deficit reduction cuts will be severe in 2002. A balanced budget amendment will require reducing Federal grants to States, for programs such as Medicaid and highway funds, by a total of $71.3 billion in fiscal year 2002. Other Federal programs that directly benefit State residents, such as Medicare and housing assistance, would have to be cut by $176.5 billion in fiscal year 2002. However, these figures grow significantly if Republican-sponsored tax reductions in the Contract With America are taken into account. Cuts totalling $97.8 billion in grants and $242 billion in other programs that directly benefit State residents would be required in fiscal year 2002 under a balanced budget amendment combined with the proposed Contract With America tax reductions.

For the benefit of my constituents, I would like to highlight the impact on the State of Hawaii based upon an analysis prepared by the Treasury Department. I ask unanimous consent that a copy of the Treasury Department's analysis on the impact of the balanced budget amendment and Contract with America tax reductions be included in the CONGRESSIONAL

Source: U.S. Department of the Treasury, January 12, 1995.

for Medicaid, highways, Aid to Families with Dependent Children, education, job training, environmental protection, housing and other programs by $328 million. Combined with the proposed tax cuts in the Contract With America, this figure rises to $450 million in lost Federal grants annually. Hawaii would also lose another $1 billion annually in other Federal spending for Medicare, housing assistance, student loans, veterans' benefits and other programs. The Treasury Department's analysis further shows that Hawaii State taxes would have to be increased by over 9 percent to make up for lost Federal funding and to continue these programs.

The American public and our constituents have a right to know about the impact of the proposal before us on their lives. Without a provision setting forth the nature and amounts of budget cuts, the balanced budget amendment measure before us would be grossly unfair to our States and our taxpayers.

Why are the Republican who are the authors of this balanced budget amendment afraid to let the people know? Don't they trust their fellow Americans? The logical and appropriate way to make decisions is to know all the facts. Our constituents—the American taxpayers—and our State legislatures should be entrusted with and have the benefit of the facts before this balanced budget amendment is considered for ratification.

The Senate is unique because it is where ideas and concerns can be freely and fully expressed. I hope that every Member of this body will express themselves freely. I hope that all of us will participate openly in this debate.

As this joint resolution stands today, I will most certainly oppose it and do everything in my power to defeat it.

EXHIBIT 1.

THE IMPACT OF A BALANCED BUDGET AMENDMENT AND THE CONTRACT WITH AMERICA ON THE STATE OF HAWAII[1]

I. A Balanced Budget Amendment would reduce annual Federal grants to the Hawaii state government by $328 million:

$117 million per year in lost funding for Medicaid.

$62 million per year in lost highway trust fund grants.

$24 million per year in lost funding for welfare (AFDC).

$125 million per year in lost funding for education, job training, the environment, housing, and other areas.

Hawaii would have to increase state taxes by 6.8 percent across-the-board to make up for the loss in grants.

II. A Balanced Budget Amendment combined with the ''Contract with America'' tax cuts would require even deeper spending cuts, thereby reducing annual Federal grants to the Hawaii state government by $450 million:

$161 million per year in lost funding for Medicaid.

$85 million per year in lost highway trust fund grants.

$32 million per year in lost funding for welfare (AFDC).

$172 million per year in lost funding for education, job training, the environment, housing, and other areas.

Hawaii would have to increase state taxes by 9.3 percent across-the-board to make up for the loss in grants.

III. A Balanced Budget Amendment and the ''Contract with America'' tax cuts would

TABLE 1.—SPENDING REDUCTIONS UNDER BALANCED BUDGET AMENDMENT, FISCAL YEAR 2002

[In millions of dollars]

State	Cuts in Grants to State Gvoernments					Required State tax increase (in percent)	Cuts in other Federal spending		
	Total	Medicaid	Highway	AFDC	Other		Total	Medicare	Other
Alabama	1,162	641	98	32	391	16.4	3,058	1,157	1,900
Alaska	306	89	71	19	127	9.8	576	44	532
Arizona	919	519	78	68	254	10.4	2,397	949	1,447
Arkansas	723	416	65	16	225	16.5	1,567	766	800
California	7,708	3,944	442	960	2,362	9.2	20,321	9,101	11,220
Colorado	755	387	79	36	253	11.8	2,764	721	2,044
Connecticut	1,008	587	105	63	253	11.2	1,843	1,089	755
Delaware	158	70	18	9	61	7.2	383	176	207
District of Columbia	697	183	17	24	473	20.4	4,937	313	4,624
Florida	2,656	1,520	202	170	764	10.2	9,782	5,336	4,446
Georgia	1,608	938	131	101	438	12.0	2,780	1,392	2,398
Hawaii	328	117	62	24	125	6.8	737	216	522
Idaho	254	118	33	8	95	9.9	855	218	637
Illinois	2,576	1,354	174	155	892	11.6	7,532	4,092	3,441
Indiana	1,490	956	123	54	357	13.8	2,531	1,497	1,034
Iowa	630	328	69	35	197	10.9	1,919	897	1,022
Kansas	622	355	52	29	186	13.0	1,730	819	911
Kentucky	1,157	690	69	56	341	14.5	2,111	952	1,159
Louisiana	1,966	1,500	94	48	324	27.8	2,361	1,066	1,296
Maine	452	279	28	24	121	17.5	717	385	331
Maryland	1,125	581	83	65	398	9.9	6,253	1,377	4,876
Massachusetts	1,915	1,073	248	135	459	12.6	4,683	2,449	2,234
Michigan	2,477	1,355	140	229	753	13.2	4,988	3,333	1,655
Minnesota	1,177	679	102	83	314	9.4	2,547	1,123	1,424
Mississippi	864	496	61	24	282	20.8	1,672	713	959
Missouri	1,316	747	109	62	398	15.5	3,942	1,781	2,161
Montana	277	123	52	12	89	19.8	744	218	526
Nebraska	388	192	44	23	129	13.3	1,213	482	732
Nevada	227	116	32	11	68	6.2	1,005	258	747
New Hampshire	212	112	31	11	58	17.6	563	270	293
New Jersey	2,476	1,500	141	129	705	12.7	4,653	2,894	1,759
New Mexico	524	233	70	28	193	12.9	2,117	321	1,796
New York	8,181	5,442	274	535	1,930	17.4	11,058	6,876	4,182
North Carolina	1,697	1,025	136	95	441	11.1	3,217	1,432	1,785
North Dakota	229	105	35	8	81	19.7	563	231	332
Ohio	2,826	1,718	170	212	727	14.4	6,007	3,442	2,565
Oklahoma	770	424	51	51	244	12.4	2,110	934	1,117
Oregon	706	342	54	47	263	12.2	1,976	833	1,143
Pennsylvania	3,057	1,767	211	178	901	12.7	8,555	5,120	3,435
Rhode Island	430	255	42	23	109	21.4	619	347	272
South Carolina	1,033	644	68	31	260	14.3	2,217	682	1,536
South Dakota	231	103	39	6	82	24.7	577	205	372
Tennessee	1,537	989	78	60	411	19.5	3,845	1,349	2,496
Texas	4,167	2,520	340	147	1,159	14.0	10,758	4,280	6,479
Utah	422	190	49	22	160	11.4	1,078	235	842
Vermont	207	89	37	13	68	17.4	301	150	151
Virginia	1,005	490	72	49	393	8.2	6,073	1,374	4,699
Washington	1,318	730	117	126	346	8.4	3,569	1,107	2,463
West Virginia	765	488	45	32	199	20.6	1,209	600	608
Wisconsin	1,250	694	111	96	349	10.3	2,480	1,503	977
Wyoming	218	55	38	8	118	18.7	286	96	191
Total, State	70,172	40,271	5,093	4,480	20,328	12.6	172,792	77,199	95,593
Undistributed and territories	1,127	43	83	28	973	NA	3,700	276	3,424
Total, United States	71,300	40,314	5,176	4,506	21,301	NA	176,492	77,476	99,017

Source: U.S. Department of the Treasury, January 12, 1995.

TABLE 2.—SPENDING REDUCTIONS UNDER CONTRACT WITH AMERICA, FISCAL YEAR 2002

[In millions of dollars]

State	Cuts in grants to State governments					Required State tax increase	Cuts in other Federal spending		
	Total	Medicaid	Highway	AFDC	Other		Total	Medicare	Other
Alabama	1,594	879	135	44	536	22.5	4,195	1,688	2,608
Alaska	420	123	98	28	174	13.5	790	60	730
Arizona	1,261	712	108	93	348	14.2	3,288	1,302	1,986
Arkansas	992	571	90	23	309	22.7	2,150	1,052	1,098
California	10,576	5,412	607	1,317	3,241	12.8	27.880	12,486	15,394
Colorado	1,036	531	108	49	347	16.2	3,793	989	2,804
Connecticut	1,383	805	145	86	348	15.4	2,528	1,494	1,035
Delaware	217	97	25	12	83	9.8	526	241	284
District of Columbia	956	252	23	32	650	27.9	6,774	429	6,345
Florida	3,644	2,086	277	233	1,048	14.0	13,421	7,321	6,100
Georgia	2,206	1,286	180	138	601	16.5	5,200	1,910	3,290
Hawaii	450	161	85	32	172	9.3	1,012	296	716

TABLE 2.—SPENDING REDUCTIONS UNDER CONTRACT WITH AMERICA, FISCAL YEAR 2002—Continued

[In millions of dollars]

State	Cuts in grants to State governments					Required State tax increase	Cuts in other Federal spending		
	Total	Medicaid	Highway	AFDC	Other		Total	Medicare	Other
Idaho	349	162	46	11	131	13.6	1,173	299	874
Illinois	3,534	1,858	239	213	1,224	15.9	10,334	5,614	4,721
Indiana	2,044	1,312	168	74	490	18.9	3,473	2,054	1,419
Iowa	864	451	95	48	270	15.0	2,633	1,231	1,402
Kansas	853	487	71	40	255	17.8	2,374	1,124	1,249
Kentucky	1,587	947	95	77	468	19.8	2,896	1,306	1,590
Louisiana	2,697	2,059	129	66	444	38.2	3,240	1,462	1,778
Maine	621	383	38	33	166	24.0	983	529	454
Maryland	1,543	798	113	89	543	13.5	8,579	1,889	6,690
Massachusetts	2,627	1,472	340	185	630	17.3	6,425	3,360	3,065
Michigan	3,398	1,859	192	314	1,034	18.1	6,844	4,572	2,271
Minnesota	1,615	931	139	113	431	13.0	3,494	1,541	1,954
Mississippi	1,185	681	84	33	387	28.5	2,294	978	1,316
Missouri	1,806	1,025	149	85	547	21.2	5,408	2,444	2,965
Montana	380	189	71	17	123	27.1	1,021	298	722
Nebraska	533	264	60	31	177	18.3	1,665	661	1,004
Nevada	312	159	44	15	94	8.6	1,379	354	1,025
New Hampshire	291	154	43	16	79	24.1	773	370	403
New Jersey	3,397	2,059	194	177	968	17.5	6,364	3,971	2,413
New Mexico	719	320	96	38	265	17.6	2,904	440	2,464
New York	11,226	7,466	376	734	2,649	23.8	15,172	9,435	5,738
North Carolina	2,329	1,406	187	130	605	15.2	4,414	1,965	2,449
North Dakota	314	144	48	10	111	27.0	773	317	455
Ohio	3,878	2,358	233	290	997	19.8	8,242	4,722	3,520
Oklahoma	1,056	582	70	69	335	17.0	2,896	1,281	1,615
Oregon	969	469	75	65	361	16.6	2,711	1,143	1,568
Pennsylvania	4,194	2,424	290	244	1,237	17.4	11,738	7,025	4,713
Rhode Island	590	350	68	32	150	29.3	849	476	373
South Carolina	1,378	883	94	42	357	19.6	3,042	935	2,106
South Dakota	316	142	53	9	113	33.8	792	281	511
Tennessee	2,109	1,357	107	82	563	26.7	5,275	1,850	3,425
Texas	5,717	3,457	466	202	1,591	19.2	14,761	5,872	8,889
Utah	579	261	68	31	220	15.6	1,479	323	1,156
Vermont	284	122	51	18	93	23.9	413	206	207
Virginia	1,379	673	99	68	539	11.2	8,332	1,885	6,447
Washington	1,809	1,001	161	172	474	11.5	4,897	1,518	3,379
West Virginia	1,049	670	62	44	273	28.3	1,658	824	835
Wisconsin	1,716	952	153	132	479	14.2	3,402	2,062	1,340
Wyoming	300	75	52	10	162	25.7	393	131	262
Total, State	96,278	55,253	6,988	6,147	27,891	17.3	237,075	105,919	131,155
Undistrict and territory	1,547	69	114	38	1,335	NA	5,077	378	4,698
Total, United States	97,825	55,312	7,102	6,185	29,226	NA	242,151	106,298	135,854

Source: U.S. Department of the Treasury, January 12, 1995.

Mr. THOMPSON. Madam President, first of all I compliment the Senator from Utah for his leadership in this regard. It has been a great pleasure for me over these last few days, and just recently as I presided, to listen to him articulate the problem, articulate the history leading to the problem, articulate the solution that is needed. I think, as usual, he hits the nail on the head.

It was a great honor for me to sit here and listen to the debate that has gone on this afternoon with the Senator from Illinois, proving that this is indeed a bipartisan effort. We are all concerned about it. The Senator from West Virginia, who is indeed an institution within an institution, who swore me in less than 60 days ago, and whom I respect greatly and whose views I respect greatly—this is what to me the U.S. Senate ought to be about. Senators on the floor of the Senate, debating the great issues that affect this country. I wish more of our colleagues could have been here. I hope they are watching in their offices on television, to listen to these great Senators debate this great issue.

Because I agree with the Senator from Utah that this is, if not ''the,'' certainly one of the most important votes and decisions that will be made by the Senators in this body during their careers. I think we have to focus, from time to time during this debate, on exactly what we are about. I think it is nothing less than deciding whether or not we are going to take the necessary steps to protect the next generation from lower pay, from a lower standard of living, and ultimate bankruptcy of this country, or whether or not we are going to bow to those who keep demanding we do not have to cut back, insisting we do not, on current consumption, and are willing to let the next generation make the tough choices instead of ourselves.

As I listened to the debate and listened to the comments of those who oppose this amendment, I hear that there are questions concerning what is the role of the Court? What is the role of the President going to be? Who is going to be cut? We debate whether or not it was this President's fault or that President's fault. We debate whether or not it is the institution of the Presidency or the institution of the Congress—whose fault is it? Where does the blame lie? How are we going to resolve the difference between those who advocate lower taxes and those who advocate lower spending? How is all that going to be worked out?

Madam President, I think that is the debate that has been going on in this body, I suppose, for 200 years. That is the old debate. Unfortunately we still keep getting the old result, and that is a $5 trillion debt that we are approaching in this country, spending ourselves into oblivion and bankrupting the next generation.

Everybody is for a balanced budget. I have not heard anyone speak yet who was not for the concept of a balanced budget. I have not heard anyone speak yet who has not fought the good fight over the years to balance the budget and to show fiscal restraint and to show fiscal responsibility. I am not sure where the opposition really is. Everybody I have heard is for a balanced budget and has fought for it all these years. There must be some people lurking around here that we have not heard from yet because certainly we have not made any progress on it in the last two decades.

That is the debate of the past. Whose fault is it, why are we here, are we going to raise taxes, are we going to cut spending, what combination of all of that—that is what we have been debating in the past and that is what we will have to debate in the future. But times are different.

Madam President, I listened to the Senator from West Virginia talk about his career of 48 years in politics. It is a distinguished career in politics. I can never hope to achieve what he has learned in the time that he has been in government, both in the State of West Virginia and in the U.S. Congress and the U.S. Senate. I have much of a contrast with that.

I have been in politics for about a little less than 60 days, so I have great disadvantage in terms of his background and his knowledge. But I also come with one advantage, because I feel just having spent so much time with the people of my State that I can relate to a certain extent what is on their mind and what they feel about certain things.

I suspect it is not limited to the State of Tennessee. I think nothing less than a revolution is going on in this country and it is time this body picked up on it.

We have 6-year terms here. We are not supposed to bend with every wind that blows, and that is good. But I think those who have not been out there among the people, talked to them, listened to them, and had to be judged by them recently are not fully aware that just within the last few years people's thinking has changed in this country. I think people today in the United States of America have decided that our generation is not going to be the generation that sees the United States of America go from the greatest country in the world to a second-rate power. I think that the people of this country have decided just recently that they are not going to stand for the proposition that ours is the last generation that can expect to do as well or better than their parents' generation, which is what a lot of people are saying now.

I believe people feel a cynicism toward their Government, an alienation from their Government, a dissatisfaction with the U.S. Congress. That has never been before in this country. Perhaps some of it is unjustified. I submit to you that much of it is very much justified.

As we debate these issues, and as we try to decide whose fault it was, and this bill that was passed, who voted for it, how many people on this side of the aisle and all of that, as we debate that, as we see the debt increase, as we see the deficit increase, as we are taxing those unborn out there who do not have votes, as we see all of that, we see a public opinion poll occasionally that shows that people in this country have a lower regard for the U.S. Congress than almost any institution in America. Seventy percent of the people in a recent poll indicated that they believe the U.S. Congress is more interested in perpetuating itself and the individual Members in office than it is in doing the right thing. People are seeing that and they are demanding a change. They are demanding that we turn away from this old debate, who shot John, whose fault it is, how we are going to work out the details, and make one fundamental commitment to ourselves and to the future generations. And that is that we are going to change the way we do business in this country, and we are not going to hand over a second-rate power to this next generation, which is surely what we are doing as sure as I am standing here today.

Why do they feel that way? Why do they feel that way? Are people whipping them into a frenzy? Are some clever politicians convincing them of things that are not really true? Are they overly impressed with attack ads on TV? What is the reason for that?

I think it is more fundamental for that. I think the people out in the country and having to work for a living are the leading indicators. I think they are picking up on something, and they have something they understand much more so than a lot of people around here understand. They see and understand that we have gone from a country with one of the highest savings rate in the industrialized world to actually the lowest savings rate. We must have savings for investment.

They see that we now have one of the lowest investment rates of any of the industrialized countries. They understand that you have to have investment to have growth. But with one of the lowest investment rates, our growth rate is slowing down. People talk about recent years, recent months. We are so short-term oriented in this country. We cannot see the forest for the trees.

The fact of the matter is we have had a good growth rate recently. But when you compare it with other points in our history when we have come out of recessions, we are growing at a much slower rate coming out of a recession than ever before. The indicators are all over the place. They see the astronomical amount of money that we are having to borrow from foreign investors and our dependency on foreign investors. They pick up the paper and see what is going on with our neighbors south of the border and the trouble that they got into when the foreign investors decided that all of a sudden maybe it was not such a good deal after all.

Many economists predict a credit crunch in this world in the not-too-distant future. In 1993, we sent $41 billion in interest payments overseas. People talk about foreign aid. That is the largest foreign aid program we have in this country. That is larger than all the foreign aid programs put together plus the operation of our embassies; $41 billion we have sent out in interest payments because of the size of our debt.

The reason for that? The debt keeps climbing, $4.8 trillion. The deficit is hovering around before long $300 billion, some say $400 billion before long. Although we have made a little progress in the last few years, one could argue, and everyone acknowledges, that in 1998 and thereafter it is going to go off the charts. Everybody knows that. We have seen charts in this body that show us going along. And along about that time, it is almost straight up.

But we act like we have all this time and that the problem is not on us. But yet, instead of facing up to it, instead of realizing that, yes, we will have to put a straitjacket on ourselves because we have not been behaving the way we have to, we get scare tactics, we get charts about who is going to be hurt, and widows and children are going to be left in the street, and Social Security is going to be in danger, and all of these other things.

We are urged to look to the short term. ''Don't worry about down the road. Let that situation take care of itself,'' while all the time we turn from the world's biggest creditor to the world's biggest debtor. We turn from a country that sometimes borrowed overseas for investment purposes to a country that now is borrowing larger and larger sums for purposes of consumption. All the time, while we are going from a country that has always had rates of investment and productivity that led the world to one that is among the lowest in the world now; from a country that used to invest in its children to a country that now is living off of its children and grandchildren and children yet to be born.

So the American people see that. The American dream is darkening for many people. You hear young people. You ask them whether or not they expect to do as well or better than their parents. For the first time in the history of this country their answer is no. They understand that family income has been stagnant for 20 years in this country. What a lot of people do not understand is that for younger households income has actually fallen since 1973. For people who are starting families, working hard for a living, they understand that the middle class is actually shrinking.

We are falling into a second-rate power before our very eyes. They understand that. They see all of that. They also see what will happen if we do not make some incremental adjustments now. That is what it is all about. Nobody is talking about slashing programs and making massive cuts. For the most part, the conversation you hear is about economists having to make some incremental differences, having to do with slowing down the rate of increase, those sorts of things.

Yet the U.S. Congress, as of yet, has not even been willing to do that. We hear about all the dire consequences to all these programs, and individuals will have to cut back, and States will have to cut back. There will be some things that actually we might have to give up. And we will have to give up the political power that goes along with it, with the ability to dole out these things and buy the votes that we are used to buying in this country with the pork that we are used to doling out. Those times have to change.

Those times have to change. The deficit in this country, and the interest we are paying on the deficit, as the Senator from Utah pointed out, is the second highest expenditure in this Nation. This year it may pass defense; it may become the greatest expenditure we have in the entire budget. It is sapping our savings which, in turn, is lowering our investment which, in turn, is affecting our growth. If we are going to continue down that road, growth is going to slow, we will go into recession, the economy will become more stagnant, foreigners will own more and more of our productive capacities—we pay them more and more—there will be lower paying jobs, a lower standard of

living, and fewer younger people supporting a growing elderly population.

When we talk about these dire consequences and about the path that this Nation is on, we are experiencing the good news today, because the demographics are working in our favor. We have a very large working population—the baby boomers. We have more two-income earner families than ever before. But in about 2010, those demographics are going to change. As the baby boomers start to retire, we are going to have fewer and fewer people supporting more and more people in this country. That is right around the corner.

If we do not start making some incremental adjustments now, we are going to have a situation in this country where these young working people are going to be paying 70 percent of their income in taxes. They are going to be driven right through the floor in terms of their living conditions and in terms of their wages, and taxes are going to go through the roof. If you read anything any person who has written recently on the subject—any person who is now out of Government—and we hear talk about the Concord coalition, a bipartisan group, and about Mr. Peterson, a former Secretary of the Treasury, who wrote a recent book about it. These are not debatable issues, I do not think. It is clear that that is going to be the situation. What is that young working group of people on whom we, hopefully, all will be depending—and if we are alive, we will be—going to do?

I predict that they are not going to sit still for that. They are not going to sit still for 70 percent in taxes. They are not going to sit idly by while they see all these dire things happening. The chances are, I think, if we do nothing now and we let that happen, these very programs that the opponents of the balanced budget amendment want to protect so greatly are going to be slashed, thrown on the floor, stomped, decimated, and we will go further than anyone would ever dream of going today in terms of cutting and doing away with the programs that all of us claim to want to protect today.

Some people talk in terms of generational warfare. It will be the young folks against the old folks. Is that what we are headed toward? Are we not better than that, when we have the solution before us? Or at least an opportunity to put ourselves into a position to do something about it, because obviously we cannot under current circumstances.

The Entitlement Commission people ask why do we not do something about it. The Entitlement Commission came out with a report last August, a bipartisan group, including Senator KERREY from Nebraska, Senator DANFORTH from Missouri, two very thoughtful Members of this body, and they issued some rather startling reports. The one I remember is that in the year 2012, I guess, or thereabouts, we are going to run out of money, that a handful of programs and the interest on the debt in this country are going to take all of our tax revenues. We will not have money for national defense, infrastructure, schools, education, or anything else in this country. That is in 2012.

What has been the result? We hear that all we need is the will to do the right thing and everyone purports to have it. Everyone says that they are in support of a balanced budget, the implication being if we will just put this amendment aside that they are fighting so hard, this time maybe we can do something about it.

I was doing a little reading on the history of that. We have not been lacking in lip service. The Balanced Budget Act of 1921 required the President to recommend a balanced budget. The Revenue Act of 1964 said it was the sense of the Congress that the budget had to be balanced, and soon. The Revenue Act of 1978 stated that it was a matter of national policy to balance the budget of this Nation. The Humphrey-Hawkins Act of 1978 prioritized a Federal balanced budget. The Byrd amendment—Senator Harry Byrd of Virginia—in 1978, was an amendment passed that basically said that in fiscal year 1981 outlays cannot exceed receipts. That was the law passed. What happened in 1981? We had a $79 billion deficit. My research has not taken me back far enough to find out what happened to that. Apparently, it was ignored and I think after a while it got embarrassing, so they took it off the books. But we had a law that basically said the budget had to be balanced, for a little while anyway.

The Budget Act of 1974 is the foundation for the budgeting process today, and it requires annual budget resolutions. People said, ''We have it right this time. People will be afraid to vote for these large deficits when they have to come up with budget resolutions.'' The next year the deficit ballooned and, with few exceptions, it has ballooned ever since.

Gramm-Rudman-Hollings, in 1985, mandated annual reductions in deficits, and it actually had an enforcement mechanism—sequestration. That lasted a little while until the shoe got a little tight and everybody apparently decided to take the shoe off. They revised the targets. They revised them again, and ultimately they became irrelevant.

The 1990 budget deal, which I heard talked about a minute ago, is used as an example of our ability to come to terms with this deficit problem. From what I read at the time, this great bipartisan compromise, of course, involved increasing taxes, as it usually does, and the deficit increased. That was the budget deal that was supposed to get the job done. It had no affect as far as decreasing the deficit was concerned. Just the opposite. In 1993 came the latest budget deal. They are praising the President for that deal, which as I read is the largest tax increase in the history of the country, with major cuts in the military and promised cuts for the future, which we may or may not get.

Putting that aside for a minute, because even before the administration's own estimates, with all the wonderful things we are doing, it adds over $1 trillion to the debt over the next 5 years. So this is being touted as a solution. This is being touted as an example of how good we can do. It adds $1 trillion to the debt over the next 5 years.

Why is it so difficult? Well, it is because we factionalize in this country so much. Everybody has their own special interest and everybody has people they have hired to come up here and descend on us. That is, of course, a large part of what all this detailing is about and, of course, everybody wants some kind of detail. There are more proposals to balance the budget floating around this town than you can count. CBO, I noticed, had a proposal they wrote to the chairman of the Judiciary Committee with ideas on how to balance the budget. The Concord coalition has one. Mr. Peterson came out with one in his book.

What, really, I think, is desired by some folks is the ability to put something on the table so special interests can come in and put the pressure on to defeat the balanced budget amendment. So you have all the individuals who have been used to the gravy train, the pork barrel, and they do not want to give it up. The folks that are affected most are the kids at home, the little grandkids, and generations yet to be born, and in that kind of a battle, who do you think is going to win? Who has won in the past? It is going to be tough enough with a balanced budget amendment.

Other nations have not really done much better than we have. Is there any hope to think that we can easily turn this thing around without drastic remedies, if you want to call it that? I think it is very modest. I wish it was tough.

I agree with some of the opponents to this amendment that, you know, there will be efforts to try to get around it and in it, through it, under it, and all of that. But I think it really has a chance; it really has an opportunity. And it might be our last clear chance to do something really meaningful for the next generation. But how tough it is, how tough it is to turn around.

The Senator from Utah is leading this fight for us to turn this gigantic force that is working against us, this gigantic force that is working for more and more spending; putting off until tomorrow; let us consume today; let us not worry about it; get the votes today; hand out the pork today.

Read Kennedy's ''Rise and Fall of the Great Powers,'' and Kevin Phillips recently came out with a book, ''The Arrogant Capital.'' I do not know how in the world he came up with a name like that but that was the title of his book, ''The Arrogant Capital.''

They talk in these books about the history of the Nation and how the Spanish declined in the 16th century and how the Dutch went to great heights and declined in the 17th century and how the British went to great heights and declined in the 19th century. And they really sort of asked the question: Do we feel as though we in this country are immune to the laws of nature and the laws of gravity? They were unable to roll back the strong trends that were in their countries, pushing them to greater deficits, greater debts, higher taxes, slowing economy, a declining manufacturing industry, all the things that we are beginning to see in this country. So the battle is not an easy one.

You know, as we talk among ourselves, and we hear it regardless of what the people want, people talk about majority rule and all. Look at any poll, answer your phone calls, read your mail. I do not think there is any question but the American people have decided: Enough is enough. We have to do things differently. We voted for a change. We have been wanting change for some time. Maybe we thought we were trying to get it 2 years ago in the last Presidential election.

A fellow from Texas that hardly anybody knew went from nowhere and just within a few short months he got into a position where, some people said, under a slightly different set of circumstances, he could have gotten the nomination and been President, from nowhere, because he was talking about changing the way we do business in this country.

All that is going on out there. And yet we need a two-thirds vote in this body.

And I understand there are even some people who voted for the balanced budget amendment last time who are now saying that they may vote against it this time. Last time, they were pretty sure it would not pass and maybe this time they are afraid that it might pass. So it is going to be difficult.

I, again, commend the Senator from Utah, who is leading this fight and articulates this case so well. I think it is the most important vote we will have in a long, long time as far as this U.S. Senate is concerned.

I only urge those within the sound of my voice to remain focused on what this is about. The patient—and maybe we are the patient—has been acting a little crazy over the last several years, and we have not been doing the right thing, and the thing we know that we are going to have to do to get better. It sure would be good to cure the patient. But we have been taking treatment and medicine for a long time, and it is not doing us any good.

Maybe the time has come that we are going to have to impose a straitjacket on ourselves. It is not perfect. But until we show some inclination, absent getting hit over the head with a 2 by 4, to do the obvious and right thing that we ultimately have to do to protect this next generation, this is the way to go. We will worry about the details in terms of the implementing legislation, and we can have the debates that we have already started here today.

But I think it is vitally important that we get about the business of passing this amendment and make a statement that we are not so selfish that we are going to sit idly by and debate these issues forever, using the moneys and the assets and the resources in the very country that is the birthright of the next generation; but we are going to take a step forward, say no to the vested interests, say no to those who want to continue to consume not just what they are consuming now but more and more and more, and say to everyone that we are all going to have to make some incremental change.

Is there any more basic commitment that a human being has than the one that he has to his children? If we had our child standing next to us here, there is nothing that we would not do. And yet, we are so dispersed in our attention and we are so diverted in so many different ways, we have not been able to focus on what we are doing. This debate will focus on what we are doing.

I commend the Senator from Utah and other colleagues in this great fight.

Thank you very much.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I ask unanimous consent that the distinguished Senator from New York be given the floor after I make very brief remarks about the great remarks of my colleague from Tennessee.

The PRESIDING OFFICER. The Chair wishes to make two announcements and then will recognize the Senator from New York, following the remarks of the Senator from Utah.

Mr. HATCH. Madam President, I want to compliment the distinguished Senator from Tennessee for his very, very welcome and important remarks on this issue.

I think this new group of Senators is as good a group as I have ever seen come into the U.S. Senate. We feel particularly privileged to have four of them on the Judiciary Committee, not the least of whom is the distinguished Senator from Tennessee.

In his own down-home Tennessean sort of way, he has laid out why we have to pass this balanced budget amendment. I personally just want to express my appreciation and my high regard for him. I believe that the distinguished Senator from Tennessee is going to make a whale of a difference here in the Senate, and already is making a whale of a difference on the Judiciary Committee, as I am sure he is on other committees. So I personally thank him for his kind remarks.

If people have been noticing, these new Senators have been coming here and speaking on this amendment because they got the message. They know that is one of the reasons they are here. I personally appreciate their efforts in this matter.

I yield the floor to my colleague.

APPOINTMENTS BY THE CHAIRMAN OF THE FINANCE COMMITTEE

The PRESIDING OFFICER. The Chair announces on behalf of the chairman of the Finance Committee, pursuant to section 8002 of title 26, United States Code, a substitution in the membership of the Joint Committee on Taxation. The Senator from Kansas [Mr. DOLE] has resigned from the joint committee and will be replaced by the Senator from Utah [Mr. HATCH] for the duration of the 104th Congress only. Therefore, the membership of the Joint Committee on Taxation for the 104th Congress is as follows: the Senator from Oregon [Mr. PACKWOOD]; the Senator from Utah [Mr. HATCH]; the Senator from Delaware [Mr. ROTH]; the Senator from New York [Mr. MOYNIHAN]; and the Senator from Montana [Mr. BAUCUS].

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to section 1024, title 15, United States Code, announces the following majority appointments to the Joint Economic Committee: the Senator from Florida [Mr. MACK], chairman; the Senator from Delaware [Mr. ROTH]; the Senator from Idaho [Mr. CRAIG]; the Senator from Utah [Mr. BENNETT]; the Senator from Pennsylvania [Mr. SANTORUM]; and the Senator from Minnesota [Mr. GRAMS].

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. D'AMATO. Thank you, Madam President.

Madam President, I wish to associate myself with the remarks of our new colleague, the distinguished Senator from Tennessee. I think he has spelled out very cogently why the American people voted for change. They are tired of Big Brother Government saying, ''We know what's best for you. We're going to give it to you, whether you like it or not. We have programs that are good for you, whether you can pay for them or not.''

The people want a balanced budget amendment, and they are right. This is no time to start playing politics as usual. This is an important issue.

I will tell you how important it is. If we continue to do business as we have in the past, we will become just like our neighbor to the south.

Who will we go to for the bailouts? Who? What are we talking about? We are not talking about cutting spending. Oh, no, we are talking about decreasing the rate of spending. We are still going to spend trillions—something like $13 trillion in the next 7 years. We are talking about maybe cutting that down to $12 trillion. If we can do that, we have a balanced budget.

What do we have here? The opposition, the Democrats, are simply and purely stalling. They are looking for a way for escape clauses. Let me tell Members, there are many of our colleagues who voted on the other side for the balanced budget amendment. What are they doing now? Why, they are scampering for the hills. The Senator from Tennessee was absolutely right. They voted for the balanced budget amendment to protect their political hide in years gone by so they could go back and say to their people, ''Oh, I voted for the balanced budget amendment.'' They knew we could not get two-thirds.

And here we are. Here we are, poised to do something that the American people overwhelmingly want. And what are they doing? Ducking, shimmying, telling us, ''How can you get there? Spell it out over the next 7 years.'' They cannot tell us what they are going to do next month, let alone 7 years down the line.

What are the interest rates going to be 7 years down the line? Keep spending this way, it will be 20-plus percent, we will not have any economy. The Senator is right. Know what Social Security will be worth? Know what inflation will take place? Incredible. What are we going to do then? It is about time we did the business of the people. Stop the pussyfooting.

The American people know what they want. Those Members who were sent here to do the business of the people should keep our feet to the fire. I know it will be tough. But doing the right thing sometimes does require some courage. The fact is that we should stick with the principles that the American people are demanding. They want Members to balance the budget. They want Members to cut spending, cut taxes. It is right for America. We can do it.

I have to tell Senators I am not going to look the other way. I will be very candid. If our colleagues begin this business of attempting to find these escape clauses, we will call it to the attention of the American people. We have an obligation to keep their feet to the fire, to do the business of the people.

Mr. President, in that connection, I have to say I think that the President of the United States looked for a way to get around the voice of the people. The voice of the people is the Congress. And in proposing his new agreement to help our neighbors to the south, he circumvented the Congress. Now, I hope that that plan works. But I have grave, grave doubts. I have grave doubts that we will have the ability to see to it that those loan guarantees are not just withered away, and that we do not see the American taxpayers picking up $20 billion-plus.

I can name places I see loan guarantees and we know they will get paid back, and they do help. Maybe Orange County. I remember loan guarantees for New York. Much more difficult terms then those we have made available to our brethren in the south—Mexico. Guarantees. That means we are paid out over a period of 4 years. Not within an 18-month period of time.

I did not know if the IMF and the World Bank will do the kind of job or whether they are in a position to see that Mexico makes the kind of reforms necessary, or whether they will just continue to print paper.

I wonder, is it the business of this country to see to it that those who invested were getting 20- and 30-percent returns in Mexico, that we will hold them harmless and they will get every single dollar and get back 20 percent? Is that the business of this country? If you make an investment and there is a high risk and you get 20-percent return, people say you are a genius. But if it goes sour and you go down, do we really expect Uncle Sam, the American taxpayers, Uncle Sam to bail you out and say, ''We hold you harmless.''

What kind of economic stabilization program is that? I wonder why it is that we did not say to the Mexican Government, as those noteholders come due, ''We will help you in renegotiating the payments and the terms.'' Why should people get dollar for dollar, plus 20 percent? I did not know you did that in restructuring. Certainly that is not what the capital system is about.

I have to tell Members, I think that all the doom and gloom predictions and the fact that there would be huge immigration, masses coming across the border, well, that is our Government's responsibility to see that we stop that kind of thing.

You do not threaten the American people every time there is a crisis and say, ''My gosh, unless we do this, put up $20 billion, $40 billion we will have a massive migration to this country.'' Is that what we are coming to? Just raise that specter of fear? And we all succumb?

I hope this plan works. I have grave doubts. I predict if we look at the history, we saw economic devaluations every time there was an election. I would suggest this administration knew of this crisis, and knew of it quite some time ago. Maybe back last November. And they hid it from the American people. They did not step in and insist that conditions be met at that point in time. Now they come and say the sky is falling in. Well, that is OK but I do not think it is right that the American taxpayer has to step in.

Mr. President, I will tell you as the Senator charged with the responsibility of seeing to it that we are not wasteful, as it relates to taxpayer dollars, and being on the Banking Committee we will hold hearings and carefully monitor the execution of this agreement or the implementation, to see to it that we do the best we can to see that there are real economic reforms, and we are not taking hard-working taxpayers' money and just shoveling it down there. Then in 3 or 4 years from now throw up our hands and say, ''Oh my gosh, we did the best we could do. Maybe to protect our investment we have to invest another $20, $30, or $40 million.''

Look at the record and that is what it demonstrates. In 1982 the banks were holding most of the paper and took a pretty terrific loss. It seems to me that 12 years later, the only difference is, the American people may be poised that they can get a bigger hit. That is unfortunate. Thank you.

Mr. HATCH. Mr. President, I thank the distinguished Senator from New York. I appreciate his remarks, especially those on the balanced budget amendment. He certainly makes a difference in this body, and will make a difference once we pass that amendment.

Mr. President, let me assure the American people that the balanced budget amendment is neither snake oil nor a tonic. It is a necessary first step to a healthier economic lifestyle. It is as sensible as anyone who has been a binge deciding, finally, to go on a diet. This amendment puts a bloated, overgrown Federal Government, and out of control Federal bureaucrats, on a diet. Now, as our colleague from Idaho, who is certainly helping me on this amendment and is one of the leaders on this amendment, Senator CRAIG has said, if someone decides to go on diet to lose 100 pounds over 2 years, we do not ask that person to name every meal he or she intends to eat over those 2 years. To ask for a budget over the next 7 years is equally a diversion.

Indeed, just imagine if some of our colleagues had been sitting in the Constitutional Convention of 1787, in Philadelphia. Just imagine when the following clause in article I, section 9 came before the Convention: ''No money shall be drawn from the treasury, but in Consequence of Appropriations made by law * * *.'' Oh no, these colleagues would have said, tell us how much the appropriations will be over the next 7 years or we cannot adopt this provision and this Constitution. What about the clause in article I, section 8, giving Congress the power to regulate foreign and interstate commerce? Oh no, some of our colleagues would have said in Philadelphia in 1787, if they felt the same as some of our colleagues here, we cannot give Congress the power to regulate commerce until we know the foreign tariffs and interstate regulations Congress will enact over the next 7 years. If the spirit of these colleagues of ours had prevailed then, perhaps goods from New Jersey would still be taxed by New York.

This is the Constitution we are addressing here, not a budget document.

What is important here is this: What is going to happen to our country if we do not enact this balanced budget amendment?

These monster deficits force the Federal Government to engage in massive borrowing. Interest rates are kept high and are driven higher. Home buyers face higher mortgage rates, making it more difficult for hardworking Americans to get their piece of the American dream. Home builders cannot build homes, workers do not have jobs, revenues are not paid to the Federal Government. The greater the difficulty in buying a home, the greater the problems in the home building industry. Employment will drop in that industry and in related businesses from realtors to title searchers.

The cost of buying consumer goods goes up as a result of these monster deficits and the Government borrowing it compels. Let us just take the automobile industry as another example. As the cost of credit goes up, automobile sales naturally are adversely affected. Also, workers get laid off. Auto sales and service workers at your local auto dealer get laid off. The industries which supply the automobile manufacturers all have to lay off people. Every consumer industry is adversely affected when the cost of credit goes up.

What about the impact of monster deficits on small business? Listen to a part of a statement submitted to the Judiciary Committee by the National Federation of Independent Business, which strongly supports this amendment, I might add:

> As deficits increase, the cost of capital increases. Large deficits absorb a significant portion of the available capital. As a result, private enterprises are crowded out of the pool of available credit for financing. Unfortunately, this crowding out is not borne evenly across businesses of all sizes. It is more probable that small businesses bear the brunt of this financial displacement since they have fewer financing alternatives available to them relative to larger firms. When small businesses cannot obtain capital to improve facilities, purchase equipment, and expand their operations, fewer jobs are created and less revenue is sent to the Treasury.

What a statement by the National Federation of Independent Businesses.

Opponents of this amendment ask us about tax increases. If we do not pass this amendment and put the Federal Government on a fiscal diet, taxes are clearly going to go up to pay the ever-increasing interest on the ever-growing national debt. I do not know any American who really wants that to happen, to just throw more money down the drain on the national debt's interest. Golly, when are we going to get it under control?

Here is what the National Taxpayers Union says:

> A child born today faces a huge bill by the time he or she is old enough to vote at age 18. Paying interest on the national debt accumulated just in this child's first 18 years of life will cost that child's family over $103,000 in extra taxes on average over his or her lifetime.

This assumes an annual deficit of $285 billion for this child's first 18 years and the National Taxpayers Union notes that the Congressional Budget Office projects that the deficit will average $285 billion over the next 11 years. So our children and our grandchildren will pay and pay and pay unless we pass this amendment.

The American people want change. The amendment is part of that change. We cannot keep going the same old way around here. The old order, it seems to me, has to give on this issue. And if we do not get the votes on this issue, then we have to rise up and get rid of the old order. It is just that simple. Not because we dislike them or not because they are not nice people or not because we do not like our own Senators when they are at home; we have to get rid of them, we have to get people here who mean business on this.

If we do not pass this balanced budget amendment this time, we may never have a chance to do it again. It may be too late. But if we do pass it, then everybody here knows the game is over, they know the States are going to ratify this amendment, and they know that we are going to have to get to work over the next 7 years to get that trend line down to a balanced budget. It is that simple.

The distinguished Senator from West Virginia has told us how much a balanced budget will hurt the States and the American people and public. I do not think any of us here have claimed it will be easy to balance the budget or that there will be no pain involved. We are not painting nirvana here. We are saying there is going to be pain, but pain with gain ultimately.

For the first time in 19 years—really, the first time in recent history—Congress will be forced to make priority choices among competing programs, and they will have to choose those that are the most important programs, those that do the most good, and maybe let those that are marginal and some that are not as good go, just as you do when you do your budget, just as the States do when they do theirs. We all know it is going to be difficult to cut back on spending. As the Federal Government goes on a diet, the States and our American citizens are smart enough to know that they are going to have to tighten their belts, as well. It is about time. It is about time that we all just come to that conclusion because that is where we are, and there is no other way around it.

This diet involves more than just cutting our spending practices. It means a lifestyle change from the spending binges of the past. It means changing the old order. It means changing the old ways. It means moving into the 21st century with new ways. These new Senators are making a difference. I notice one of them sits in the chair right now, from Pennsylvania. He got elected in part because he was willing to stand up on this issue, and he is going to get reelected again because he is voting for it. Those who do not are going to be the ones who have the troubles.

We must all evaluate our current programs and spending levels to determine their effectiveness. This includes our State programs, as well. If we did not launder all the money through the Federal Government, there would be a lot more money for the States, only it would not be laundered and there would not be just 28 percent come to the States out of the laundering. They would have 100 percent, and they would not have to increase taxes to get there.

The numbers given to us by my colleague from West Virginia regarding the grants given to States assume that each and every program will be continued in its current form. I doubt that this is going to be true. I do not see how anybody cannot doubt that is going to be true. We are not going to keep all these same programs in their current form. We are going to have to change some of them. We are going to have to delete some of them. They are going to be the lesser programs, the ones that do not count as much as others. Some States may be happy to end some of these programs we force on them. But each of the States will respond in its own way to meet the priorities of its own citizens.

As the ability of Congress to overspend disappears, we will be forced to evaluate where the money is going. This means that we should put the money into the most effective programs and stop funding the wasteful programs that just are not working.

We will have to examine our priorities and adjust our spending accordingly. We have seen many proposals to balance the budget without cutting Social Security, Medicare, or other vital programs. While I do not know of one that is the ultimate solution, they do show us that with a lot of cooperation and work, we can find a roadmap to balance the budget.

One example, for instance, would hold the growth of Federal Government spending, currently at 5.4 percent per year and going up, to 3.1 percent a year. This would balance the budget by the year 2002. If we exclude Social Security and constrain the spending growth to just 2 percent, the budget would still be balanced—and that is excluding Social Security.

This is without eliminating a single program. There are ways of doing it. We just do not have the will to do it nor the need to do it because we do not have the constitutional requirement or mandate to do it. If we put this in the Constitution, I do not know of a Senator in this body who would not change his or her legislating style, who would not change his or her attitude about spending, who would not try to live up to the mandate of the Constitution. We swear to do so, and I believe everyone here will.

I realize that it is not as simple as I just explained with regard to the 2-percent increase in the budget each of the next 7 years—we can reach a balanced budget without really cutting the programs—but we will have to examine the spending patterns of the Federal Government. We will have to eliminate some well-intentioned programs that are not working or not working well, and reform other programs that are not working as well as they could.

The important point, however, is that we can get there, but we will not get there unless we put this mechanism into the Constitution.

It is not painless, and we will all feel the pinch with the reduced spending that will be necessary to balance the budget. But if we do not balance the budget, it will cause each and every American taxpayer even more pain. If we continue to increase the debt, inflation will skyrocket and the dollars used by every American citizen will be worth less, especially when we will be forced to monetize the debt. This will hurt even more than tightening our belts and making the spending cuts necessary to balance the budget. If we do balance the budget now, we will all share the benefit. It will not be too much for any single individual. We will all have to share.

More importantly, however, we will all feel the benefits of lower inflation, a more valuable dollar, and the security of knowing that except in times of war or other hostilities, or in times of severe depression, we will maintain a balanced budget, which is what the Founding Fathers really wanted, and what they really assumed would be the rule under the Constitution.

This amendment will help us to do a better job. This will do away with this old attitude that if we just tax and spend, we can get elected. The system will change to where we can get elected if we live within our means, conserve the Federal Government's money, the people's money, if you will, work with the States, and quit intruding into everybody's life every day as the Federal bureaucracy does now.

This country is in trouble. We are fighting with all we have to try to solve the problems of this country, and this particular amendment can do it. In all honesty, our spending in this country is at runaway proportions. We are destroying our country. We are destroying the future of our young people. For the first time in history—I repeat it one more time—our kids do not have the promise of a better future that we had. And I really, really resent that.

This is the greatest country in the world. I suppose we could survive anything because of the resilience of the American people. But we could survive better if we do what is right. This country, if it is righteous and it does what is right and it lives within its means and if Congress has the incentive to live within its means, will always be the greatest country in the world. But if we do not do right and we keep spending like we are spending and we keep interest against the national debt rising like it is rising, compounding every year, this country will slip; it will fall; this whole hemisphere will be affected; the whole world will be affected; and our dollar will fall in value to the point where those who are on fixed incomes, including our seniors on Social Security, will be the most hurt.

This is important to our country's future. This is the single most important vote that we will be casting when we vote up or down on this amendment. I am quoting Senator KENNEDY and Senator BIDEN when I say that. But I agree with them. This is the most important vote most of us will ever make. In order to get there we have to vote down all the killer amendments that will make it more difficult to pass it again in the House—and that is the purpose of them—and will make it more difficult to pass it here. We are going to have to stand up and vote.

Now, I believe that we will have 67 Senators who believe enough in this country to vote for a balanced budget amendment. The only chance we have is this bipartisan consensus, Democrat-Republican amendment, and acknowledge that it was no small achievement for the House of Representatives to pass this through for the first time in history. We have done it before in the Senate, but we have also failed before. This time we do not intend to fail. If we win, it is going to be because the American people got involved. So I hope everybody out there listening to this really inundates this Senate with the demand that we pass the balanced budget amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. 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. GORTON. Mr. President, the Senate appears to be drawing fairly close to the end of a week in which Members have spoken in relatively general terms about the desirability or lack of desirability of a constitutional amendment to nudge this Nation along the road toward a balanced budget. Soon we will be dealing with specific amendments to this proposed constitutional amendment and I wish to speak for just a moment both in general terms and in specific terms.

In general terms, we face the proposition that divides this body, I believe at this point, simply into two camps. Earlier this week, I had thought there were three different and distinct attitudes, but I have heard only two. There are those who, like myself, believe that the country is in a serious crisis, that the status quo is unsatisfactory, and that the situation, the set of rules under which we have operated—not just for years but for generations—will not and cannot serve to lead this country along the road to fiscal sanity and a balanced budget and that, therefore, drastic action in the form of a constitutional amendment is necessary. I believe that expresses the views of a significant majority of the Members of this body—I hope of two-thirds of the Members of this body.

Those who oppose this constitutional amendment, however, have either brought up rather narrow technical objections to it or have stated almost without exception their devotion to the idea of a balanced budget but their views that to change the Constitution in order to encourage it is a bad idea. I believe they are wrong. I believe those who feel that we should have a balanced budget but that we can reach that goal without a profound change in the system under which both the Congress and the President of the United States operate have a tremendously difficult burden of proof. Because, of course, the rules that they want to continue in effect have been the rules during the entire time in which this multitrillion-dollar debt has been built up.

How is it that they feel that suddenly, without any change in the system under which we operate, we will nevertheless reach a goal which has eluded us for such an extended period of time? That, it seems to me, should be the central focus of this debate by the one group which stands for the status quo, mostly on the liberal side of the spectrum, which nevertheless gives lip service to a balanced budget, but which has given us not the slightest hint as to the road to be traveled in order to reach that end.

If I understand it correctly, beginning tomorrow or certainly sometime during the course of the next week, we will be faced, by adding to the Constitution of the United States detailed provisions pursuant to which those who feel the change in the Constitution is necessary will be required to outline, in absolute, binding detail in the laws of the United States, precisely the road by which we will reach that goal by the year 2002, ignoring the fact that there will be three new elections for Congress between now and that year in which different Members will be elected, during which time crises in our international affairs may or may not arise, crises in our own domestic and economic affairs may or may not arise, with new Members with new knowledge who may wish an entirely different course of action than any we could possibly outline here.

Nevertheless, those who believe in the status quo will be asking us to bind ourselves to a precise, legally binding, detailed blueprint of the way in which this goal will be reached.

Mr. President, it is my position that it is they, not we, who should provide us with that detailed blueprint.

We believe that dramatic change is necessary. We look at the history of the last decade or decades, and say the system is broke. We wish to fix it. The way in which we wish to fix it is to strongly, in the Constitution of the United States, encourage a balanced budget by requiring a significant supermajority which can unbalance one, which is still to be possible under emergency circumstances when a bipartisan majority feels that it would be necessary. We do not have, and we should not have, a detailed blueprint about how to reach that goal because, if this proposal becomes a part of the Constitution, all will be a part of the solution, those who favor it and those who oppose it, including the President and future Presidents of the United States. The entire challenge will seem quite different to us and to the Nation at that point. And we will learn. I think we will learn that it may be a little bit easier than we had thought because the commitment to do so in and of itself will, I think, lower interest rates, for example, here in the United States.

It will be my position, and I think the position of many others here, that the group of Members of this body and the people in this country who believe the status quo is good enough, who do not want change, who do not believe change is necessary, but who nevertheless, as they have almost without exception, given lip service to a balanced budget, it is they who are under the duty of telling us exactly how they will reach that goal without a change in the Constitution, without a change in the rules in which we operate in this Senate.

Mark my words, Mr. President. Next week, as we begin to cast votes on these various amendments to the amendment, one fact should remain before all of the American people. We are either for or against this change. We are either for or against a new way of doing business. We are either for or against the status quo. And those who try to hide or obfuscate that issue through changes, through technical objections, through demands for detailed blueprints, essentially are saying the status quo is just fine.

Those who hold to the goal of this proposed constitutional amendment in this form, the form in which it passed the House of Representatives, are truly those who are devoted to a new and different way of doing business, a way of doing business in which we no longer spend whatever we like and pass the bill on to our children and grandchildren.

That is the issue we began to debate this week. It will be the issue in every vote we take until finally, as I hope we will, we pass this joint resolution and send it to the people of the 50 States for their ratification.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. 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. ROCKEFELLER. Mr. President, I thank the Presiding Officer for his courtesy.

Mr. President, as I struggle to get over my disbelief that we are back at this, I rise once again to express my views of a constitutional balanced budget amendment.

The basic reasons I oppose this amendment are the same ones that led me to vote against it on the two previous occasions—since I joined the Senate—that it has been before this body.

Congress does not need the U.S. Constitution to perform its responsibility for the Federal budget. We were elected to make the decisions about where to spend the hard-earned tax dollars of Americans, and where not to spend those dollars. We were elected to make the decisions required to adapt to the country's needs and to keep us militarily and economically strong. We do not need to add another page to the Constitution to do our job.

And some of us have worked very hard in the recent years to, in fact, do the job of digging out from the exploding deficits of the 1980's, reducing the deficit, and changing the priorities of the Federal budget in order to cut waste and increase investment in America's future. I have cast many votes in the recent years for actual cuts, for detailed changes in policy, and for specific budget plans—all the time, watching many colleagues vote the other way because somehow those specific ideas just weren't quite palatable or perfect enough for him.

It is no accident that the Federal deficit will drop this year for the third year in a row, for the first time in 50 years. The deficit finally started to shrink because instead of waiting to get the Constitution to tell us to cut spending and require some fiscal discipline, we did it ourselves.

I want to see the Federal budget balanced, too. But I refuse to strap the Federal budget into a speeding train, having no idea who and what in my State of West Virginia that train will crush. I got elected to help steer that train, to help set its speed, and to adjust its route—so we can change course when we need to deal with less than minor matters like recessions, natural disasters, military crises, and other dire needs or situations.

As a former Governor of West Virginia, I am shocked every time I hear proponents of the constitutional amendment say ''this is just doing what States have to do.'' That is completely and utterly wrong, and it is insulting and misleading to the American people. Every Governor and every State government has tools, outside of its operating budgets, to borrow and to invest. Through bonds and other methods, States can build and repair roads, improve schools, and lay the ground for the needs of their people. Under this constitutional amendment for a Federal balanced budget, that would not be possible. This proposal is nothing less than a straitjacket that just might suffocate the prosperity and economic growth that determines whether there are jobs and opportunity for Americans.

This is where economics is not just about textbooks or abstract theories. To eliminate the Government's ability to stimulate the economy or to intercede in a crisis is to create a recipe for disaster. Whether economic growth were strong or weak would be ignored in the name of a balanced budget. Recessions would be more frequent, longer, and tougher to pull out of. Large spending cuts or tax hikes would be required in times of slow growth, just when the opposite is called for because cutting Government spending or raising taxes slows the economy even more. Passing a balanced budget amendment would exaggerate rather than mitigate America's shifting economic fortunes.

This year, I feel even more strongly that the constitutional balanced budget amendment is a bad idea whose time has not come. That is because there is another script that many of this amendment's proponents are working from this year. It is called a plan to generate tax cuts that are expected to cost between $400 and $700 billion over the same 7 years that this amendment would require a balanced budget. These are tax cuts that go far beyond relief for hard-working Americans and the middle class. You will find it in something called the contract for America, and it is a script that wants to stage the revival of tax cuts for the wealthy and corporations—this time with the hope it will not pull the rug out from the rest of Americans like it did before.

Well, Broadway should stick to bringing back old scripts, not Capitol Hill. In representing West Virginia, I don't want to see any revivals of past nightmares.

When I was Governor, and watched Congress promise to balance the budget while cutting taxes, I saw what happened in living color. Our plants that shut down and threw working families of West Virginia into foreclosures and bankruptcies. Our kids who dropped out of college because tuition money had to go to their families' mortgage payments and medical expenses. Our senior citizens who kept thermostats at 58 degrees because they could not afford heating oil.

So when I say I want to see the hidden details of this balanced budget amendment, it is not for political reasons or academic curiosity. It is because of the contract I have with West Virginia. It is because now I am here, not in the State House, to cast my vote and say show us just how you are going to get this done.

For those who want to put the Federal budget on this speeding train, where's your map? Who gets thrown off the train, and who gets to stay on? Will it be the programs and services that feed children, care for veterans, pay our rural hospitals, and keep our water clean and safe? Will the highways now being finished in my State—while other States got theirs paid for before us—end up being roads to nowhere because the money will run out? Will our seniors find out that Medicare cannot keep its promise just when they need health care?

West Virginia has the right-to-know what the script will be this time. If it is to be a reprise of the 1980s, we are not buying tickets. We saw the unemployment rates or some of our counties soar over 50 percent. We lost $1.7 billion in aid—the largest per-capita in the Nation—almost $1,000 per person. We watched our plants close, we watched our hospitals shut services, we watched our schools work with fewer resources, and we were forced into a recession that the State is only now starting to pull out of. So West Virginia will not be trampled again.

I understand the lure, the appeal, the aroma of a constitutional amendment to balance the budget. Write into the most sacred document of this Nation, one of the most venerable documents in the world, that we, the Congress, will require that expenditures made by the Federal Government do not exceed its revenues.

But this is the classic case of putting the cart before the horse. In the real world, this promise means coming up with a total of $1 trillion in actual budget cuts over 7 years—years that are going to fly by very quickly. If those tax cuts for a lot of non-middle-class Americans get thrown onto the equation, we are talking about $1.4 trillion in spending cuts. Then, if Social Security is excluded, defense is given special protection, and there are few other untouchables, what exactly does $1.4 trillion in budget cuts mean to the people of West Virginia—and to the people of the other States?

Just when West Virginia is getting up from the beating we took over a decade ago, we face this. Just as our industries and workers are standing up to the challenges of the new economy, determined to make it, we face this.

This amendment, with those added tax cuts, threatens to pull $2.7 billion away from West Virginia. That means much less for education, job training, housing, health care, student loans, veterans services, you name it. That means less to feed schoolchildren, support our police, invest in our university research.

Even some proponents of the balanced budget amendment are realizing that, this time—as a new car called $400-billion-plus of tax cuts is hitched onto the speeding train—this time, we all better know what the route consists of.

For example, it is not possible to achieve $1.4 trillion in cuts without squeezing unprecedented amounts of money out of Medicare, Medicaid, and veterans health care and benefits. It is just not possible. The Senate Budget Committee staff have even acknowledged that $644 billion will have to come somehow from the so-called entitlement programs—except for Social Security—over the next 7 years to hurl the budget into balance. Maybe the nightmares will not happen. Maybe seniors will not find benefits cut off. Maybe the veterans hospitals can stay open. Maybe we will not just give up on immunizing poor children. But maybe not. We could be sending people over cliffs with this train.

Again, that's why I add my voice to the right-to-know idea. The proponents of this amendment have an obligation to think through what course they will take. Will it be a collision course for our economy, finally growing again, facing intense competition from other nations while working families can't seem to get their incomes up? Or maybe there's a map I haven't seen yet—one that accelerates the deficit reduction that I also want, but keeps the country and my State on an even course.

Mr. President, the tools for deficit reduction are already in hand. Cutting wasteful and frivolous spending, creating a climate for productivity with accessible credit and sound trade policies, and keeping workers on the job. That's just common-sense deficit reduction.

I will not change that stand until those who support this amendment can detail all the spending cuts and tax increases necessary to reach the promised land. Show my people the plan. Show Americans the specifics, so we can also debate how they will affect our economy. Show this Nation's hard-pressed families how they will send their kids to college when student loans disappear. Show American industry and workers how we will keep up with our competitors when we just give up on research that plants the seeds for the next wave of technology. Show Governors, State legislators, mayors how the greatest unfunded mandate of all time—this balanced budget amendment—will help them pick up the pieces. What happens when States and communities do not get the funds to fight crime, train teachers, promote their exports, or repair their bridges?

We watched some of this show already, and it was a huge flop. In the 1980's, we watched arbitrage kings and junk-bond peddlers make fortunes while factories padlocked their gates and cast workers into the cold. We saw a nation divided into winners and losers as budget efforts took from those who could give least and asked little, if anything, from those who had the most. The middle-class worked harder just to keep up, the poor got poorer with less chance to get ahead, and the rich rode first class as they profited.

In the recent years, and I do not just mean the past 2 years under a Democratic President, I thought Congress was figuring out that it was time to take a different approach. No more games, no more empty promises. If we deserve to be here, we have to make real choices and honest decisions. When enough of us started doing that, then and only then did the Federal deficit start to shrink. The job is far from done, and it is not getting any easier. But by working out a balance between what must be done to invest in our people and use their hard-earned tax dollars more wisely, we have a course that I see as far less reckless and dangerous than strapping this amendment onto the U.S. Constitution.

The balanced budget amendment is a quick-fix for a problem that has grown because of quick-fixes. West Virginia does not deserve any repeats of a cruel and unfair past. So spell it all out for us—every spending cut and every tax—and show us where the money to balance the budget this quickly, with constraints that not a single State government is under, will come from. Until you can, do not ask West Virginia to sign on. We know the old saying, ''Fool me once, shame on you. Fool me twice, shame on me.'' And we will not get fooled again.

I thank the Chair and I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. 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. SANTORUM. Mr. President, in the last few minutes here before we pack up and call it a day, I wanted to respond to some of the comments that the Senator from West Virginia just made while I was presiding. He made some comments that were familiar in tone, that I had been hearing throughout the day and throughout the week by so many Members who have risen in opposition to the balanced budget amendment.

I keep hearing this familiar refrain, ''I am for a balanced budget—but.'' ''I really believe in a balanced budget—however.'' ''We need to get to a balanced budget but this constitutional amendment just is not the way to do it.'' ''You need to tell us how you are going to get there. But I want to get there, too, but I do not need to tell you but you need to tell us, because you are for a balanced budget amendment.'' Or, you are for a balanced budget amendment but you are not for this amendment, because this amendment says that we are going to have a balanced budget by the year 2002.

Then when are you for a balanced budget amendment? If not in the year 2002, are you for a budget balanced budget in 2003? 2004? 2005? Pick a number. Tell us when you think we should have a balanced budget, and then you tell us how you will get us there. But do not stand and say that you are for a balanced budget in the abstract, but it would be too painful and too hurtful to your State or to the individuals that you know who will suffer under this, to get there. You are either for a balanced budget and for the commitment to get there, or you are just talking. And we have been doing a lot of talking here in the Senate and the House for a lot of years about how we are going to get to a balanced budget.

Now, the Senator from West Virginia said that he took pride in the vote he cast 2 years ago, 1993, that put us on course. We are on course, he said. We are on course. I do not know if he has seen some of the deficit projections by the Congressional Budget Office. We are not on course to a balanced budget. We are not even close to being on course to a balanced budget. This budget is going to hang around where it is right now for the next couple of years, and then just goes way up again around the turn of the century, doubling from where it is today. We are not on course for a balanced budget.

We must do something just to keep the deficits where they are now. We will have to pull back Government, or, as some would propose, increase taxes, just to hold where we are as far as annual deficits. So we are not on course. We are way off course.

Now, I come from southwestern Pennsylvania, which is the border of West Virginia. I actually lived the first 7 years of my life in West Virginia. I am very familiar with West Virginia. And I am very familiar with the pain that a lot of the people in West Virginia and southwestern Pennsylvania and around the Pittsburgh area where I am from, suffered during the early 1980's. And I represented a congressional district before I came here where in the late 1970's there were over 110,000 steelworkers working in my district. When I was sworn into office in the early 1990's, there were less than 15,000 steelworkers remaining.

Now, I know what economic devastation is, but I can tell Senators, the people in that district, the people in West Virginia, are not concerned about the next Government program we will create to put them back to work or to train them. What they want are good, private sector jobs. And that is what responsible fiscal policy will get this country. Sound fiscal policy will stabilize this economy and create jobs into the future.

I look forward to the opportunity to respond further to the Senator from West Virginia and others on that side of the aisle. I see it is time to wrap things up, so I will yield the floor.

Mr. HATCH. Mr. President, I want to compliment the distinguished Senator from Pennsylvania. I cannot say what it means to me to see these new Senators on the floor coming down here and standing for the balanced budget amendment. All 11 of them do. It is an amazing transition, an amazing change. As somebody who has been fighting for this for the last 18, 19 years, I have to say, these folks, like the distinguished Senator from Pennsylvania, are making a difference. And they will make a difference, coupled with heroic Democrats who are willing to fight side by side with us because—whether liberal or conservative—they feel that it is now the time to make this change. We have to do it.

So I want to compliment the distinguished Senator from Pennsylvania. I have great respect for him. He deserves it. He is a great addition to this U.S. Senate. I hope he will keep fighting side by side us on this and other matters.

MESSAGES FROM THE HOUSE

At 3:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 101. An act to transfer a parcel of land to the Taos Pueblo Indians of New Mexico.

H.R. 400. An act to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes.

H.R. 440. An act to provide for the conveyance of lands to certain individuals in Butte County, California.

H.J. Res. 50. Joint resolution to designate the visitors center at the Channel Islands National Park, California, as the ''Robert J. Lagomarsino Visitors Center.''

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent and referred as indicated:

H.R. 101. An act to transfer a parcel of land to the Taos Pueblo Indians of New Mexico; to the Committee on Energy and Natural Resources.

H.R. 400. An act to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 440. An act to provide for the conveyance of lands to certain individuals in Butte County, California; to the Committee on Energy and Natural Resources.

H.J. Res. 50. Joint resolution to designate the visitors center at the Channel Islands National Park, California, as the ''Robert J. Lagomarsino Visitors Center''; to the Committee on Energy and Natural Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

Eleanor Hill, Virginia, to be Inspector General, Department of Defense.

The following-named officer to be placed in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Ira C. Owens, 000–00–0000, U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Paul E. Menoher, Jr., 000–00–0000, U.S. Army.

The following-named brigadier generals of the U.S. Marine Corps for promotion to the permanent grade of major general, under the provisions of section 624 of title 10, United States Code:

To be major general

Brig. Gen. Leslie M. Palm, 000–00–0000.

Brig. Gen. Michael J. Williams, 000–00–0000.

Brig. Gen. Lawrence H. Livingston, 000–00–0000.

Brig. Gen. Martin R. Steele, 000–00–0000.

Brig. Gen. Frederick McCorkle, 000–00–0000.

Brig. Gen. Michael D. Ryan, 000–00–0000.

Brig. Gen. Patrick G. Howard, 000–00–0000.

Brig. Gen. Wayne E. Rollings, 000–00–0000.

The following-named officer for reappointment to the grade of Vice Admiral while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. William C. Bowes, 000–00–0000, U.S. Navy.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code 601(a):

To be lieutenant general

Maj. Gen. John N. Abrams, 000–00–0000, U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Guy A.J. LaBoa, 000–00–0000, U.S. Army.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. THURMOND. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the RECORDS of January 6 and 10, 1995 and to save the expense of printing again.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of January 6 and 10, 1995 at the end of the Senate proceedings.)

*Lt. Gen. Ira C. Owens, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 92).

*Maj. Gen. Paul E. Menoher, Jr., USA to be lieutenant general (Reference No. 93).

*In the Marine Corps there are 8 promotions to the grade of major general (list begins with Leslie M. Palm) (Reference No. 94).

*Vice Adm. William C. Bowes, USN for reappointment to the grade of vice admiral (Reference No. 96).

**In the Air Force there are 5 promotions to the grade of lieutenant colonel and below (list begins with Rex E. Carpenter) (Reference No. 100).

**In the Air Force Reserve there are 3 appointments to the grade of lieutenant colonel (list begins with William H. Bobbitt) (Reference No. 101).

**In the Air Force Reserve there are 19 promotions to the grade of lieutenant colonel (list begins with Travis D. Balch) (Reference No. 102).

**In the Air Force Reserve there are 32 promotions to the grade of lieutenant colonel (list begins with David S. Angle) (Reference No. 103).

**In the Army there are 2 promotions to the grade of colonel (list begins with Stephen M. Bahr) (Reference No. 104).

**In the Army there are 15 promotions to the grade of colonel (list begins with John E. Baker) (Reference No. 105).

**In the Army there is 1 appointment as permanent professor at the U.S. Military Academy (Colonel Kip P. Nygren) (Reference No. 106).

**In the Army Reserve there are 14 promotions to the grade of colonel and below (list begins with David A. Gutowski) (Reference No. 107).

**In the Army Reserve there are 9 appointments to the grade of colonel and below (list begins with Eduardo C. Cuison) (Reference No. 108).

**In the Army Reserve there are 34 promotions to the grade of colonel and below (list begins with James E. Akers) (Reference No. 109).

**In the Army Reserve there are 33 promotions to the grade of colonel and below (list begins with Charles M. Coleman) (Reference No. 110).

**In the Army Reserve there are 41 promotions to the grade of colonel and below (list begins with Frank D. Chaffee) (Reference No. 111).

**In the Army Reserve there are 23 promotions to the grade of colonel and below (list begins with Richard E. Cooley II) (Reference No. 112).

**In the Army Reserve there are 49 promotions to the grade of colonel and below (list begins with Michael P. Breithaupt) (Reference No. 113).

**In the Army there is 1 promotion to the grade of lieutenant colonel (David E. Bell) (Reference No. 114).

**In the Army there is 1 promotion to the grade of lieutenant colonel (Leopoldo A. Rivas) (Reference No. 115).

**In the Army there are 35 appointments to the grade of major (list begins with John C. Aupke) (Reference No. 116).

**In the Army there is 1 promotion to the grade of major (Darryl A. Wilkerson) (Reference No. 117).

**In the Marine Corps there is 1 promotion to the grade of colonel (Thomas E. Sheets) (Reference No. 118).

**In the Navy and Naval Reserve there are 28 appointments to the grade of commander and below (list begins with Michael J. Esper) (Reference No. 120).

**In the Navy and Naval Reserve there are 42 appointments to the grade of commander and below (list begins with Claudio Biltoc) (Reference No. 121).

**In the Army there are 168 appointments to the grade of colonel and below (list begins with Richard Monnard) (Reference No. 122).

**In the Air Force there are 2,168 promotions to the grade of lieutenant colonel (list begins with George M. Abernathy) (Reference No. 123).

**In the Air Force there are 2,776 to the grade of major (list begins with Milton C. Abbott) (Reference No. 124).

**In the Air Force there are 2,523 appointments to the grade of captain (list begins with Donald R. Adams, Jr.) (Reference No. 125).

**In the Army there are 80 promotions to the grade of colonel (list begins with John F. Armstrong) (Reference No. 126).

**In the Army Reserves there are 600 promotions to the grade of colonel (list begins with Glendon L. Acre) (Reference No. 127).

**In the Marine Corps Reserve there are 85 promotions to the grade of lieutenant colonel (list begins with Karen J. Anthony) (Reference No. 128).

**In the Navy there are 809 appointments to the grade of captain and below (list begins with Joseph A. Surette) (Reference No. 129).

*Maj. Gen. John N. Abrams, USA to be lieutenant general (Reference No. 145).

*Maj. Gen. Guy A.J. LaBoa, USA to be lieutenant general (Reference No. 147).

**In the Air Force there are 32 appointments to the grade of colonel and below (list begins with Lydia D. David) (Reference No. 148).

**In the Army there are 4 promotions to the grade of major (list begins with Ajay Verma) (Reference No. 149).

**In the Army there are 44 promotions to the grade of lieutenant colonel (list begins with Rose J. Anderson) (Reference No. 150).

**In the Army there are 66 appointments to the grade of captain (list begins with Michael T. Adams) (Reference No. 151).

**In the Air Force there are 1,002 appointments to the grade of second lieutenant (list begins with David W. Abba) (Reference No. 152).

Total: 10,759.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CONRAD:

S. 332. A bill to provide means of limiting the exposure of children to violent programming on television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (for himself, Mr. JOHNSTON, and Mr. LOTT):

S. 333. A bill to direct the Secretary of Energy to institute certain procedures in the performance of risk assessments in connection with environmental restoration activities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCONNELL (for himself and Mr. BIDEN):

S. 334. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes; to the Committee on the Judiciary.

By Mr. LOTT:

S. 335. A bill for the relief of Joe W. Floyd; to the Committee on Armed Services.

S. 336. A bill for the relief of John T. Monk; to the Committee on Veterans' Affairs.

By Mr. D'AMATO:

S. 337. A bill to enhance competition in the financial services sector, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DASCHLE (for himself, Mr. ROCKEFELLER, Mr. AKAKA, Mr. KERREY, Mr. DORGAN, and Mr. CAMPBELL):

S. 338. A bill to amend title 38, United States Code, to extend the period of eligibility for inpatient care for veterans exposed to toxic substances, radiation, or environmental hazards, to extend the period of eligibility for outpatient care for veterans exposed to such substances or hazards during service in the Persian Gulf, and to expand the eligibility of veterans exposed to toxic substances or radiation for outpatient care; to the Committee on Veterans' Affairs.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 339. A bill to ensure the provision of appropriate compensation for the real property and mining claims taken by the United States as a result of the establishment of the White Sands Missile Range, New Mexico; to the Committee on Armed Services.

By Mr. BROWN:

S. 340. A bill to direct the Secretary of the Interior to conduct a study concerning equity regarding entrance, tourism, and recreational fees for the use of Federal lands and facilities, and for other purposes; to the Committee on Energy and Natural Resources.

S. 341. A bill to extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978, and for other purposes; to the Committee on Energy and Natural Resources.

S. 342. A bill to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for himself, Mr. NICKLES, Mr. BOND, Mrs. HUTCHISON, Mr. MURKOWSKI, Mr. LOTT, Mr. COCHRAN, Mr. HATCH, Mr. DOMENICI, Mrs. KASSEBAUM, Mr. COATS, Mr. ABRAHAM, Mr. INHOFE, Mr. SMITH, Mr. SANTORUM, Mr. THOMPSON, Mr. WARNER, and Mr. KYL):

S. 343. A bill to reform the regulatory process, and for other purposes; to the Committee on the Judiciary.

By Mr. SHELBY (for himself and Mr. HEFLIN):

S. 344. A bill to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WARNER (for himself and Mr. ROBB):

S. 345. A bill to authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection, and administration of Colonial National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. INOUYE):

S. 346. A bill to establish in the Department of the Interior the Office of Indian Women and Families, and for other purposes; to the Committee on Indian Affairs.

By Ms. SNOWE (for herself and Mr. BROWN):

S. 347. A bill to amend the Immigration and Nationality Act to make membership in a terrorist organization a basis of exclusion

from the United States; to the Committee on the Judiciary.

By Mr. NICKLES (for himself, Mr. DOLE, Mr. BOND, Mrs. HUTCHISON, Mr. MCCONNELL, and Mr. LOTT):

S. 348. A bill to provide for a review by the Congress of rules promulgated by agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MCCAIN (for himself and Mr. KYL):

S. 349. A bill to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program; to the Committee on Indian Affairs.

By Mr. BOND:

S. 350. A bill to amend chapter 6 of title 5, United States Code, to modify the judiciary review of regulatory flexibility analyses, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD:

S. 332. A bill to provide means of limiting the exposure of children to violent programming on television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE CHILDREN'S MEDIA PROTECTION ACT OF 1995

Mr. CONRAD. Mr. President, today I rise to introduce the Children's Media Protection Act of 1995.

Mr. President, last Tuesday, the President in his State of the Union Address, asked Americans to take responsibility for their lives, to keep families together, and to keep communities from falling apart. As part of that challenge, the President expressed his continuing concern over media violence and challenged the media industry by saying,

> You do have a responsibility to assess the impact of your work and to understand the damage that comes from the incessant, repetitive, mindless violence and irresponsible conduct that permeates our media.

Mr. President, I agree, and so do the experts. Let me quote the Guggenheim Foundation from the study of ''Violence in Society.'' They said, ''The scientific debate is over. A recent summary of 200 studies published through 1990 offers convincing evidence that the observation of violence as seen in standard, every day television entertainment, does affect the aggressive behavior of the viewer.''

Mr. President, while the scientific debate is over, the public policy debate continues into its fifth decade.

Let me just turn to a chart which shows that violence in our society is far above that of any other industrialized nation. This chart is titled ''Crime Across the Globe, Murders Per 100,000 in 1990.'' The United States, 9.4; Canada, 5.5; Denmark, 5.2; France, 4.6; Australia, 4.5; Germany, 4.2; Belgium, 2.8, and on it goes down to Japan at 1.2.

Mr. President, we have a problem in this country. No one is suggesting that violence in the media is the sole cause; certainly, it is not. But to deny that it plays a part is to deny what all of us instinctively understand. We learn by watching what others do, and many children in our society are spending 6 hours a day watching television. What do they see? One thing they see is endless acts of mindless, gratuitous violence. Mr. President, it has an affect and it is a bad affect. It teaches children that one way to deal with problems is to engage in acts of violence. And in many cases it teaches them that there are no consequences, there is no pain. People are blown away and it does not make a difference.

We know better. We know it does make a difference, and we know this is not what we should be teaching our children. Because of a lack of action on this issue, I formed the Citizens Task Force on TV Violence, comprised of 28 national organizations representing medical professions, parents, educators, law enforcement, and churches. We formed that group in June 1993.

In December of that year, the Attorney General, Janet Reno, asked us for a set of recommendations. We submitted seven recommendations to the Attorney General. Those recommendations called for the adoption of a tough entertainment-media violence code, support for technology that would permit parents to more effectively monitor children's viewing of television. We recommended strengthening the Children's Television Act of 1990, scheduling hearings by the FCC on television violence, convening a White House Conference on Violence, curbing viewing of violent television programming in prisons, and the continuation of television industry discussions as authorized under the Television Program Improvement Act of 1990.

Shortly after these recommendations were submitted, the American Medical Association's house of delegates called for the adoption of a television violence code. They had a rating system for films, video, and audio entertainment. Following the outcry last year over the violent content of television and cable programming, the major TV networks and cable initiated voluntary assessments of violent content in their program. These assessments began with the 1994–95 television viewing season. Additionally, the major television networks agreed to display viewer warnings on some television programming containing violent content. They deserve credit for these steps.

There is progress on other fronts, as well. Even the leaders of the entertainment industry have come to believe that violence in the media is a problem. In a survey of entertainment industry leaders in U.S. News & World Report on May 9, 1994, nearly 9 out of 10 media entertainment industry leaders said that violence in entertainment contributes to the level of violence plaguing the Nation.

Mr. President, even though there has been a recognition, even though there has been a public discussion about media violence and the contribution it makes to violence in our society, nothing is happening. The media mayhem continues.

I cite the alarming report of the Center for Media and Public Affairs that was done in August of last year. The center, working with the Guggenheim Foundation, reported that television is considerably more violent in 1994 than it was 2 years previous.

Mr. President, I direct your attention to the chart that we have prepared that shows what has happened to the daily violence on television, a comparison between 1992 and 1994. This shows the incidents of violence per hour that are going out over the media.

Networks in 1992 had 25 violent acts per hour on average. In 1994, that had increased to 43 acts of violence per hour. Cable was even more egregious. Cable had 55 acts of violence per hour in 1992. That escalated to 75 acts of violence per hour on average in 1994. Only Public Broadcasting had modest levels of violence and was stable in the acts of violence portrayed between the years of 1992 and 1994.

Mr. President, although there has been a lot of talk about doing something about violence in the media, there has been precious little action.

I believe the American people do not want their children and families exposed to the extraordinary violence that is occurring in the entertainment media on a daily basis.

Now, we here in the Senate do not watch a lot of television because we wind up being here most of our time or in our States going from town to town. And so opportunities for watching television are somewhat limited. I would just ask my colleagues to turn on the television, watch what is happening, and ask yourselves: Can it possibly be the case that we can have children watching 6 hours of television a day and seeing endless repetitive mindless acts of violence and it has no effect on them? It cannot be. It has to be having an effect on them. And virtually every study that has been done says it is having an effect on them.

Mr. President, I recognize that the violence in our society is not just because of media violence. Certainly, that is not the case. There are many contributors. But the time has come for us to reduce the violence in the entertainment media. The trend to glamorize violence must stop.

I am pleased by the voluntary efforts the media has undertaken. But let us face it. The job is not getting done. I do not believe that voluntary initiatives are sufficient to reduce media violence. For that reason, I am introducing legislation today that incorporates the principal recommendations of the Citizens Task Force. The legislation includes means to empower parents to help them make choices. It provides for new television sets being required to contain a V-chip that would permit parents to block television programming with violent content. The cost of the V-chip is now down to about $5 per television set—$5 —to give the parents an ability, to empower parents to help

make choices for their children. That makes sense.

Second, the legislation contains a violent programming rating provision. This provision requires the FCC to prescribe, in consultation with the broadcasters and cable operators, private interest groups and concerned citizens rules for rating the level of violence in television programming. These ratings would apply to the V-chip technology.

Third, the legislation contains a children's safe harbor provision which requires the FCC to initiate a rule that prohibits commercial television, cable operators, and public telecommunications entities from broadcasting television programs that contain gratuitous violence between the hours of 6 a.m. and 10 p.m. at night.

Mr. President, if there is one thing we have heard all across this country it is that there ought to be a safe harbor, there ought to be a period within which kids are watching television that parents can have some assurance they are not being exposed to this mindless gratuitous violence.

Finally, the bill contains the Children's TV Act compliance provision which requires the FCC, when granting or renewing TV licenses, to assure the applicant is in compliance with the Children's Television Act of 1990.

These provisions are consistent with the FCC's current examination of television violence in children's television programs and the implementation of the Childrens' Television Act of 1990.

Mr. President I have supported voluntary efforts in the past and I continue to support and commend these efforts. But it is absolutely clear—absolutely clear—that those efforts are not sufficient to achieve the result that I think the vast majority of Americans would like to see achieved.

The President challenged us last Tuesday to understand the impact that this constant stream of mindless violence is having on our families and children. I applaud the President, and I hope he will continue to draw public attention to the corrosive effect that violence in the entertainment media is having on our families and on our children.

Mr. President, I welcome cosponsors to my legislation. I urge my colleagues to carefully examine the issue of media violence as it relates to violence in our society.

I ask unanimous consent that the text of my bill, the recommendations submitted to Attorney General Janet Reno by the Citizens Task Force on TV Violence, the names of the national organizations in the task force that endorse the recommendations, and the press release announcing the action by the American Medical Association's house of delegates, its article, entitled ''A Kinder, Gentler Hollywood,'' in the May 1994 issue of the U.S. News & World Report, the findings of the study by the Center for Media and Public Affairs, along with the press release announcing the study, and the report of the study of the findings of 200 studies of violence, along with the endorsements of task force members that supported this initiative, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

(See exhibit 1.)

Mr. CONRAD. Mr. President, I want to specifically draw the attention of my colleagues to the letter of support for this legislation from the American Medical Association—I was pleased to have the president of the American Medical Association at the press conference this morning announcing this legislation—the support from the National Association of Secondary School Principals; the support of the National Coalition on Television Violence; the support of school principals who recognize that the epidemic of violence on the streets of America is spilling over into the schools of America and their belief that media violence is contributing to that violence; the support from the National Association for the Education of Young Children; the strong statement of support from the National PTA; the support of The Future Wave, which is made up of producers and writers themselves who recognize that television violence, media violence, is contributing to violence in our society; and the support of the National Alliance for Nonviolent Programming. All of these groups have specifically endorsed, now, the legislation that I am introducing today.

[EXHIBIT 1]

S. 332

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 ''Childrens' Media Protection Act of 1995''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) On average, a child in the United States is exposed to 27 hours of television each week, and some children are exposed to as much as 11 hours of television each day.

(2) The average American child watches 8,000 murders and 100,000 acts of other violence on television by the time the child completes elementary school.

(3) By the age of 18 years, the average American teenager has watched 200,000 acts of violence on television, including 40,000 murders.

(4) The Times Mirror Center reports that a recent poll of Americans indicates that 72 percent of the American people believe that there is too much violence on television, and, according to a survey by *U.S. News and World Report* dated May 1994, 91 percent of American voters believe that mayhem in the media contributes to violence in real life.

(5) On several occasions since 1975, *The Journal of the American Medical Association* has alerted the medical community to the adverse effects of televised violence on child development, including an increase in the level of aggressive behavior and violent behavior among children who view it.

(6) The National Commission on Children recommended in 1991 that producers of television programs exercise greater restraint in the content of programming for children.

(7) A report of the Harry Frank Guggenheim Foundation, dated May 1993, indicates that there is an irrefutable connection between the amount of violence depicted in the television programs watched by children and increased aggressive behavior among children.

(8) It is in the National interest that parents be empowered with the technology to block the viewing of television programs whose content is overly violent or objectionable for other reasons.

(9) Technology currently exists to permit the manufacture of television receivers that are capable of permitting parents to block television programs having violent or otherwise objectionable content.

SEC. 3. ESTABLISHMENT OF TELEVISION VIOLENCE RATING CODE.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end the following:

''(v) Prescribe, in consultation with television broadcasters, cable operators, appropriate public interest groups, and interested individuals from the private sector, rules for rating the level of violence in television programming, including rules for the transmission by television broadcast systems and cable systems of signals containing specifications for blocking violent programming.''.

SEC. 4. REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303), as amended by section 3, is further amended by adding at the end the following:

''(w) Require, in the case of apparatus designed to receive television signals that are manufactured in the United States or imported for use in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus—

''(1) be equipped with circuitry designed to enable viewers to block the display of channels, programs, and time slots; and

''(2) enable viewers to block display of all programs with a common rating.''.

SEC. 5. SHIPPING OR IMPORTING OF TELEVISIONS THAT BLOCK PROGRAMS.

(a) REGULATIONS.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

''(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(w) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

''(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading it.

''(3) The rules prescribed by the Commission under this subsection shall provide performance standards for blocking technology. Such rules shall require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and blocking specifications established by the Commission.

''(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers.''.

(b) CONFORMING AMENDMENT.—Section 330(d) of such Act, as redesignated by subsection (a)(1), is amended by striking ''section 303(s), and section 303(u)'' and inserting in lieu thereof ''and sections 303(s), 303(u), and 303(w)''.

SEC. 6. ELIMINATION OF VIOLENT PROGRAMMING ON TELEVISION DURING CERTAIN HOURS.

Title I of the Children's Television Act of 1990 (47 U.S.C. 303a et seq.) is amended by adding at the end the following:

''PROHIBITION ON VIOLENT PROGRAMMING

''SEC. 105. (a) The Commission shall, within 30 days of the date of the enactment of this Act, initiate a rule-making proceeding to prescribe a prohibition on the broadcast on commercial television and by public telecommunications entities, including the broadcast by cable operators, from the hours of 6 a.m. to 10 p.m., inclusive, of programming that contains gratuitous violence.

''(b) As used in this section:

''(1) The term 'cable operator' has the meaning given such term in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

''(2) The term 'programming' includes advertisements but does not include bona fide newscasts, bona fide news interviews, bona fide news documentaries, and on-the-spot coverage of bone fide news events.

''(3) The term 'public telecommunications entity' has the meaning given such term in section 397(12) of the Communications Act of 1934 (47 U.S.C. 397(12)).''.

SEC. 7. BROADCAST ON TELEVISION AND CABLE OF EDUCATIONAL AND INFORMATIONAL PROGRAMMING FOR CHILDREN.

(a) BROADCAST TELEVISION.—Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following:

''(k) EDUCATIONAL AND INFORMATION PROGRAMMING FOR CHILDREN.—In granting an application for a license for a television broadcasting station (including an application for renewal of such a license), the Commission shall impose such conditions upon the applicant as the Commission requires in order to ensure that the applicant complies under the license with the standards for children's television programming established under section 102 of the Children's Television Act of 1990 (47 U.S.C. 303a) and otherwise serves the educational and informational needs of children through its overall programming.''.

(b) CABLE SERVICE.—Part III of title VI of the Communications Act of 1934 (47 U.S.C. 541 et seq.) is amended by adding at the end the following:

''EDUCATIONAL AND INFORMATION PROGRAMMING FOR CHILDREN

''SEC. 629. A franchise, including the renewal of a franchise, may not be awarded under this part unless the cable operator to be awarded the franchise agrees to comply with the standards for children's television programming established under section 102 of the Children's Television Act of 1990 (47 U.S.C. 303a) and to otherwise serve the educational and informational needs of children in the provision of cable service under the franchise.''.

CITIZENS TASK FORCE ON TV VIOLENCE

Americans For Responsible Television, Post Office Box 627, Bloomfield Hills, Michigan 48303.

American Psychological Association, 750 First Street, NE, Washington, D.C. 20002.

National Association For The Education of Young Children, 1509 16th Street, NW, Washington, D.C. 20036.

Future Wave, 105 Camino Teresa, Santa Fe, New Mexico 87501.

National Sheriffs Association, 1450 Duke Street, Alexandria, Virginia 22314.

American Medical Association, 1101 Vermont Avenue, NW, Washington, D.C. 20005.

American Medical Association Alliance, Inc., 515 North State Street, Chicago, Illinois 60610.

International Association of Chiefs of Police, 1110 North Glebe Road, Suite 200, Arlington, Virginia 22201.

National Association of Elementary School Principals, 1615 Duke Street, Alexandria, Virginia 22314.

National School Boards Association, 1680 Duke Street, Alexandria, Virginia 22314.

American Psychiatric Association, 1400 K Street, NW, Washington, D.C. 20005.

National Council of Churches, 475 Riverside Drive, Suite 852, New York, New York 10015.

National PTA, 2000 L Street, NW, Suite 600, Washington, D.C. 20036.

Parent Action, 2 North Charles Street, Baltimore, Maryland 21201.

National Foundation To Improve Television, 60 State Street, Suite 3400, Boston, Massachusetts 02109.

National Association of Secondary School Principals, 1904 Association Drive, Reston, Virginia 22091.

American Academy of Child and Adolescent Psychiatry, 3615 Wisconsin Avenue, NW, Washington, D.C. 20016.

National Coalition on Television Violence, 33290 West Fourteen Mile Road, Suite 489, West Bloomfield, Michigan 48322.

American Academy of Pediatrics, 1331 Pennsylvania Avenue, NW, Washington, D.C. 20004.

National Association For Family & Community Education, P.O. Box 6, 127 North Pepperell Road, Hollis, New Hampshire 03049–0006.

National Child Care Association, 1029 Railroad Street, Conyers, Georgia 30207.

National Association of Social Workers, 750 First Street, NE, Washington, D.C. 20002.

Alliance Against Violence In Entertainment For Children, 17 Greenwood Street, Marlboro, Massachusetts 01752.

American Nurses Association/American Academy of Nursing, 600 Maryland Avenue, SW, Suite 100, Washington, D.C. 20024.

American Association of School Administrators, 1801 North Moore Street, Rosslyn, Virginia 22209.

National Council For Children's TV And Media, 32900 Heatherbrook, Farmington Hills, Michigan 48331–2908.

National Alliance for Non-violent Programming, 1846 Banking Street, Greensboro, North Carolina 27408.

National Association of School Psychologists, 8455 Colesville Road, Suite 1000, Silver Spring, Maryland 20910.

[From the Center for Media and Public Affairs, Washington, DC, Aug. 8, 1994]

TV VIOLENCE—1992 VERSUS 1994

Television violence increased by 41% over the last two years, according to a new study by the Center for Media and Public Affairs. The study counted 2,605 violent scenes in a single day across 10 broadcast and cable channels in 1994, up from 1,846 violent scenes in 1992. But violence shown in toy commercials dropped by 85% from 1992 to 1994.

These results come from a unique study of ''a day-in-the-life of television.'' Researchers tabulated all scenes of violence during 18 continuous hours of programming on each of 10 broadcast and cable channels during the first Thursday in April of both 1992 and 1994. The researchers monitored the following channels from 6 a.m. to midnight: the ABC, CBS, NBC, and FOX broadcast networks, PBS, and Paramount-owned independent station WDCA; and cable channels HBO, MTV, WTBS, and USA.

MAJOR FINDINGS

The number of violent scenes increased from 1,846 in 1992 to 2,605 in 1994, a rise of 41%. The average hourly rate increased from 10 to almost 15 scenes of violence per channel.

Life threatening violence (such as assaults with deadly weapons) increased even more rapidly than overall violence, rising 67% from 751 to 1,252 scenes. Incidents involving gun play rose 45%, from 362 to 526.

The greatest sources of violence on television is not any one type of programming, but the ''promos'' for upcoming shows and movies—695 violent scenes, up 69% from 1992.

Unlike TV programs and promos, violence in toy commercials dropped sharply. In about the same amount of children's programming, toy ads showed only 28 violent scenes in 1994, down from 188 in 1992—a drop of 85%.

Because the study covers a single day, the results cannot necessarily be generalized across the entire television season. But the increase in violence is too pervasive to attribute it to any unusual aspect of this particular day's programming. Violence was up on the broadcast and cable channels alike in fiction and non-fiction formats, adult and children's fare, and in promos as well as programs.

[From the Harry Frank Guggenheim Foundation, New York, NY, May 3, 1993]

H.F. GUGGENHEIM FOUNDATION URGES VIGILANCE AGAINST MEDIA VIOLENCE

CALLS FOR MONITORING OF TV NETWORKS' COMPLIANCE WITH GUIDELINES TO LIMIT VIOLENT CONTENT OF PROGRAMS

NEW YORK.—The nation's only private foundation devoted exclusively to the study of violence and aggression called today for new vigilance against violence in television programs and motion pictures. In issuing a report entitled ''The Problem of Media Violence and Children's Behavior,'' the Harry Frank Guggenheim Foundation urged parents, children's advocates, Congress, and the entertainment industry itself to monitor the industry's compliance with new self-imposed guidelines designed to limit violent content in television programs.

''A substantial body of scientific research now documents the damaging effects of exposure to violent media content. Many leading scientists are convinced that media violence promotes real violence,'' said foundation president James M. Hester. ''The entertainment industry plays an important role in the epidemic of youth violence sweeping the nation. Parents, children's advocacy groups, and Congress should hold the networks to their promise to curb violence on television.''

The foundation called on the entertainment industry to adhere to a 15-point set of standards issued by the three major television networks in December 1992. ABC, CBS, and NBC developed the guidelines in response to a law passed by Congress that protected the networks from prosecution on antitrust grounds if they coordinated efforts to regulate the amount of violence in their programming. The exemption expires at the end of this year.

''The public is anxious about the problem of media violence, but they don't know what's being done to address it,'' Hester said. ''This report supplies up-to-date information, including an important statement by Professor Leonard Eron of the University of Michigan. We hope it will encourage vigilance in monitoring how well the TV networks live up to their own guidelines. They have made a social contract with the public, and they should be held accountable to it.''

The foundation report also points out that the motion-picture industry and cable television networks have yet to issue similar standards limiting violence.

''The initiative of the television networks is a step in the right direction, but the remainder of the industry has yet to respond to the warnings of scientists and the protests of concerned citizens,'' Hester said. ''Media violence obviously remains a very serious national problem.''

The Harry Frank Guggenheim Foundation supports research in a broad range of disciplines in order to illuminate the causes and consequences of human violence. The foundation's goal is to reduce violence and improve relations among people by increasing society's understanding of violence and aggression.

THE NATIONAL ALLIANCE FOR NON-VIOLENT PROGRAMMING,
Greensboro, NC, February 1, 1995.

To: Senator Kent Conrad, Hart Senate Office Building.

From: Whitney Vanderwerff, Executive Director, The National Alliance for Non-violent Programming.

Thank you very much for your endeavors with regards to the incidence and effects of media violence.

The National Alliance for Non-violent Programming, a network of national and international women's organizations created to address the issue of media violence non-censorially, endorses the intent of two of the provisions of the Children's Media Protection Act of 1995, to be introduced by Senator Kent Conrad in the United States Senate on February 2, 1995:

Implementation of blocking technologies can empower parents and caregivers to analyze violent content and the ratings thereof and to take action to reduce the incidence and effects of media violence.

Television broadcasting stations applying for licenses and license renewals should comply fully with the standards of the Children's Television Act of 1990.

Senator Conrad's bill must be implemented in conjunction with community education and involvement. These provisions of the bill can educate and involve citizens at the grassroots, and therefore the National Alliance for Non-violent Programming lends its endorsement of the intent of these two provisions. Thank you.

WORKING FOR ALTERNATIVES TO VIOLENCE IN ENTERTAINMENT,
Santa Fe, NM, January 30, 1995.

Senator KENT CONRAD,
Hart Senate Office Building, Washington, DC.

Attn: Robert Foust, Task Force On TV Violence

DEAR SENATOR CONRAD: We were pleased to read your new bill, and to join in your press release with the following statement.

As writers and producers, we realize that this bill is not Congress censoring us. This is Congress doing our market research for us. We join with other forward thinking people in the Hollywood creative community in welcoming this challenge to generate more creative product, freed from marketplace demands for violence.

Future WAVE is an organization of writers and producers *W*orking for *A*lternatives to *V*iolence through *E*ntertainment. With Board members such as Edward James Olmos, Martin Sheen, Dennis Weaver, and with producer Robert Watts (*Indiana Jones* movies, *Alive,* etc.) we are working within the Hollywood creative community to answer MPA Chairman Jack Valenti's call: ''How can we in the film/TV industry . . . be so creatively resourceful that we are able to attract and excite audiences and at the same time try to pacify those scenes which lay claim to gratuitous violence?''

We are pleased to see that Congress is going beyond giving a standing ovation to reducing TV violence and actually beginning to do something about it—without censorship.

We believe it is very important that the rules for rating the level of violence not be simply a bean count of violent acts. For under such standards a movie like *Gandhi* or a drama on the life of Martin Luther King might be listed as very violent. [Similarly, each of the films in the attached RAVE award proposal contain acts of violence but have a powerful nonviolent message].

What parents need is the power to control programming which glamorizes or trivializes violence. We need more shows which depict nonviolent heroes facing down violence with more creative means than counter-violence.

Sincerely,

ARTHUR KANEGIS,
President.

[From the National PTA, Feb. 2, 1995]

NATIONAL PTA SUPPORTS PASSAGE OF THE CHILDREN'S MEDIA PROTECTION ACT OF 1995

(By Catherine A. Belter, National PTA Vice-President for Legislative Activity)

WASHINGTON, DC.—The National PTA joins the many other education, civic, health, child development and child advocacy organizations to speak in favor of the passage of the Children's Media Protection Act of 1995. I am here today as one of a procession of many National PTA representatives who as far back as the 1970's have petitioned Congress and the regulatory agencies about the need to provide more quality television programming for children and youth.

I am also here today, not as a legal expert, medical practitioner or law enforcement officer, but as a parent and a long standing child advocate who shares with other parents and citizens the frustration of years of attempting to influence children's television programming while not wishing to cross the fine lines of our First Amendment freedoms.

The National PTA has testified in the past that this kind of TV violence legislation would be a last resort if voluntary self-regulation and the TV Violence Act produced little results. We know that Senator Conrad and many in the Congress have taken the same stance. In my comments before the FCC last June, I reported an abysmally low compliance rate of the broadcasters with the Children's Television Act, and an almost total failure by the industry to take advantage of the anti-trust exemption provided by the Children's Television Violence Act to produce industry-wide standards and guidelines in an effort to reduce violent TV programming.

At the same time that the industry is ignoring the Children's Television Act, many parents do make an effort to monitor their children's television viewing. The National PTA certainly recognizes that responsibility for children's viewing also falls on the shoulders of the adult family members. To that end, the National PTA has recently launched the Family and Community Critical Viewing Project in association with the National Cable Television Association (NCTA) and Cable in the Classroom. This cooperative effort is designed to provide parents and teachers throughout the country with information and skills to help families make better choices in the television programs they watch, and to improve the way they watch these programs. The workshops are based on a model created in association with the Harvard media expert Dr. Renee Hobbs. The National PTA is offering media literacy workshops to PTAs around the country. In addition, the National PTA has also been in the forefront in supporting such non-commercial and educational programs as Arts and Entertainment, Cable in the Classroom, Discovery and CNN Classroom News.

But for some children TV acts as the remote babysitter and as a surrogate parent, and these children may not be fortunate enough to have parents who closely monitor their TV watching. With television in 96 percent of all American households, this medium does affect the attitudes, the informal education and the behavior of our children. The networks and many other cable producers have resisted voluntary self-regulation to improve programs for children and have not gotten the message that parents are concerned and want a reduction in violent television and an increase in quality, educational and entertaining family programs.

According to a 1993 UCLA study by its Department of Communications, TV stations provided an average of 3.4 hours per week (less than one-half hour per day) of regularly scheduled standard length programming for children. That figure is little more than what was broadcast for children in the late 70's. In addition, an assessment by one of our local units, the South Florida Preschool PTA, revealed that less than 1 percent of the broadcast hours on the four local network stations were devoted to educational and informational children's programming. Yet, in a 1990 study, the Annenberg School of Communication found that non-educational programming targeted at children increased. Programming such as the current fare of Saturday morning cartoons, X-Men, the Simpsons and Beavis and Butthead is far from educational and contains some form of violence.

The statistics related to a child's exposure to TV violence are indeed alarming. For instance, a November 1991 study by the Annenberg School of Communication showed that the average number of violent acts in one hour of children's television broadcasting was more than 30. This is even more than on prime-time TV which had only 4 acts of violence per hour. A 1993 American Psychological Association study showed that the typical child will watch 8,000 murders and more than 100,000 acts of violence before finishing elementary school. By the age of 18, the same teenager will have witnessed 200,000 acts of violence, including 40,000 murders.

After 20 years of asking the broadcasters and the industry to respond to parents and children through self-regulation and reduce violence, we believe that it is time for the next step: the passage of the Children's Media Protection Act of 1995 which contains many of the provisions advocated by the National PTA in testimony before the Senate Commerce Committee on October 28, 1993. The bill provides a multi-faceted and comprehensive approach to curbing television violence including the following:

1. The requirement that television sets are equipped so that parents have the opportunity to block programming with violent content;

2. In the future, the opportunity for parents to block any television program that they find objectionable for any reason:

3. The development of violence rating standards which reflect the input of a broad based group of citizens, including parents;

4. Creation of a ''safe harbor'' during the course of each day that prohibits programming containing gratuitous violence during the times that children are most likely to watch television. This is a provision that Attorney General Janet Reno has opined as constitutional;

5. Assurance that the FCC will carry out its responsibilities pursuant to the Children's Television Act. Parents want safe schools and safe communities. In fact, working toward violence-free schools and communities is a major program priority for the national PTA. The National PTA certainly recognizes that there are a number of causes related to violence in our society besides violent TV programming. However, the fact still remains that television is more violent than ever before and offers fewer opportunities for education and family viewing. The television industry must assume its share of the responsibility for the violent behavior of children. The Children's Media Protection Act is a health issue, an educational issue and a family values issue. Reduction of TV violence is one of the issues that received a strong bipartisan reaction from both U.S. Senators and U.S. Representatives during President Clinton's State of the Union Address. The National PTA applauds Senator Kent Conrad for introducing this legislation, and requests the immediate passage of this legislation.

[From the NAEYC News, Washington, DC, Feb. 6, 1995]

CHILDREN'S MEDIA PROTECTION ACT: A RESPONSIBLE STEP TO SUPPORT FAMILIES AND DECREASE CHILDREN'S EXPOSURE TO MEDIA VIOLENCE

The National Association for the Education of Young Children (NAEYC) strongly supports Senator Kent Conrad's introduction to the Children's Media Protection Act of 1995. This measure takes several critical steps to reduce children's exposure to media violence and its negative impact on children's development and aggressive behavior. The measure also empowers parents to take advantage of technology that gives them greater control over the television programming available to their children.

Of all of the sources and manifestations of violence in children's lives, media violence is perhaps the most easily corrected. This legislation takes steps—long overdue—to decrease the amount and severity of violent acts observed by children through television and to give parents additional control in selecting the programs available to their children.

NAEYC believes that each component of the legislation is equally important. The requirement that television sets be equipped with technology that allows parents to block objectionable programming, along with the violence rating code, will provide valuable tools that allow parents greater power in controlling the nature of television programs to which their children are exposed. The children's hour provision to prohibit gratuitous violence on commercial and public television between the hours of 6:00 a.m. and 10:00 p.m. also takes an important step in decreasing children's viewing of media violence. Finally, stronger enforcement of the Children's Television Act should promote additional choices of television viewing appropriate to children's development and interests.

The National Association for the Education of Young Children (NAEYC) is the nation's oldest and largest organization of early childhood professionals and others working to improve the quality of early childhood education services available to young children, birth through age 8, and their families. Based in Washington, D.C., NAEYC has a membership exceeding 90,000 and a network of more than 450 local, state, and regional affiliated early childhood organizations.

SCHOOL PRINCIPALS SUPPORT CHILDREN'S MEDIA PROTECTION ACT OF 1995

ALEXANDRIA, VA., February 2, 1995—The National Association of Elementary School Principals pledged full support for the Children's Media Protection Act of 1995 introduced today by North Dakota's Senator Kent Conrad.

''The effect of television on children is of great concern to school principals,'' said Samuel G. Sava, NAESP's executive director. ''The family room television is a more persuasive and pervasive educator than all the teachers in America's classrooms. There's no question that the overdose of media violence American children receive is linked to their increasingly violent behavior,'' he said. ''But more troubling for parents and educators is the fact that the violence children see, hear, and are entertained by makes them insensitive to real violence.''

NAESP, which represents 26,000 elementary and middle school principals nationwide, has long been on record in support of strengthening and enforcing guidelines for the Children's Television Act that would improve programming for children and give parents peace of mind. NAESP has repeatedly asked the FCC and Congress to employ a clearer definition of educational programming and require that stations air at least one hour of 30-minute educational shows every day between 7:00 a.m., and 10:00 p.m., when children are watching.

NAESP further urges Congress to protect children from media violence by:

Developing a violence code, which gives rules for rating the level of violence in television programming;

Allowing violent programs to air only between 10:00 and 6:00 a.m.; and

Requiring manufacturers to install devices on TVs that can be used to block programming.

''Educators want families to have better control over their children's TV viewing. We need a family-friendly media industry that is responsible to its youngest audience,'' Sava said.

Attached is NAESP's ''Report to Parents,'' produced in the fall of 1993, which its members reproduce to send home to the families to their students.

Established in 1921, the National Association of Elementary School Principals serves 26,000 elementary and middle school principals in the United States, Canada, and overseas.

[From the NCTV-News, Washington, DC, Feb. 2, 1995]

NCTV SUPPORTS SEN. CONRAD'S CHILDREN'S TELEVISION BILL

WASHINGTON DC.—The National Coalition on Television Violence (NCTV) supports of Senator Kent Conrad's bill to control the amount of television violence witnessed by children. The Children's Media Protection Act of 1995, introduced by Sen. Conrad (D. ND.) provides a combination of real tools that parents can use to effectively supervise their children's viewing habits and enforcement mechanisms to hold broadcasters accountable for their compliance (or lack of compliance) to existing rules.

The industry has consistently used a defensive strategy of tossing the problem back into the laps of parents by claiming a conflict with First Amendment Rights and criticizing parental responsibility. Parents have long been frustrated by their inability to cope with the overwhelming, ever present nature of television.

This bill requires broadcasters to provide the public with the information they need to identify objectionable programming, along with the technological tools they need to effectively block it from coming into their homes.

The provisions of bill state that:

A rating system will be developed to identify programming detrimental to children;

Computer technology (which is currently available) that can be used to selectively screen out unwanted programming will be required to be built into new televisions sets; and

Broadcaster's license renewal will be contingent on their compliance with the provisions set forth it the Children's Television Act of 1990.

Implementation of the Children Television Act of 1990 provides for ''truth in packaging'' for television programs and a ''safe harbor'' of television air time free from gratuitous violence. As any parent knows, even when exercising extreme vigilance over children's viewing, a child appropriate program is often subject to the insertion of promotional messages for just the sort of programs or movies that the parent is trying to avoid. These one minute (or less) interruptions also frequently use the most violent clips from the programs as their promotional message!

More than 40 years of research has demonstrated the negative effects of television on children, particularly the links between media violence and aggressive behavior. NCTV commends Sen. Conrad for his willingness to counter the trend of ''feel good legislation with no teeth'' to propose legislation that calls for true accountability from the broadcast media in a genuine move to improve the lives of America's children.

NASSP, THE NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS

Reston, VA, February 2, 1995.

Hon KENT CONRAD,
U.S. Senate, Washington DC.

DEAR SENATOR CONRAD: The National Association of Secondary School Principals (NASSP) and its 42,000 members commend you for your efforts to protect our children and youth from exposure to violence in television and the media. We join you in seeking passage of the Children's Media Protection act of 1995.

Our nation is experiencing an unrivaled period of juvenile violent crime perpetrated by youths from all races, social classes, and lifestyles. Without question, the entertainment industry plays a role in fostering this anti-social behavior by promoting instant gratification, glorifying casual sex, and encouraging the use of profanity, nudity, violence, killing, and racial and sexual stereotyping.

A national effort to monitor and ultimately decrease violence in television and the entertainment media is vitally important to the well-being and subsequent development of youngsters. Therefore, NASSP joins you in recommending that:

Manufacturers, both domestic and foreign, install technology on all television sets to permit parents to block television programming with violent or objectionable program content;

The Federal Communication Commission (FCC), in consultation with television broadcasters, cable operators, private interest groups, and concerned citizens, prescribe rules for rating the level of violence in television programming;

The FCC grant and renew television operating licenses only after ensuring the applicant is in compliance with the standards for children's programming established under the Children's Television Act of 1990; and

Programming containing gratuitous violence be prohibited between the hours of 6 a.m. to 10 p.m.

NASSP strongly urges Congress to halt the increasingly senseless portrayals of violence

in the entertainment media by supporting this crucial movement.

Sincerely,

DR. TIMOTHY J. DYER,
Executive Director.

VIOLENCE IN THE MEDIA AND ENTERTAINMENT INDUSTRY

Whereas, in 1979, the National Association of Secondary School Principals urged the broadcasting and motion picture industries to work with educators and parents in moving toward a significant reduction of violent acts in television film programming;

Whereas, the nation is experiencing an unrivaled period of juvenile violent crime perpetrated by youths from all races, social classes, and lifestyles;

Whereas, the average American child views 8,000 murders and 100,000 acts of violence on TV before finishing elementary school, and by the age of 18, that same teenager will have witnessed 200,000 acts of violence on TV, including 40,000 murders; and,

Whereas, the entertainment industry (movies, records, music videos, radio, and television) plays an important role in fostering anti-social behavior by promoting instant gratification, glorifying casual sex, encouraging the use of profanity, nudity, violence, killing, and racial and sexual stereotyping; be it therefore known, that the National Association of Secondary School Principals:

Appreciates the efforts of the U.S. Attorney General to focus on the problem of increasing violence in the media;

Stands in opposition to violence and insensitive behavior and dialogue in the entertainment industry;

Commends television broadcasters who have begun self-regulation by labeling each program it deems potentially offensive with the following warning: DUE TO VIOLENT CONTENT, PARENTAL DISCRETION IS ADVISED, and producers of music videos and records who use similar labeling systems;

Encourages parents to responsibly monitor and control the viewing and listening habits of their children with popular media products (records, videos, TV programs, etc.);

Calls upon advertisers to take responsible steps to screen the programs they support on the basis of their violent and profane content;

Supports federal legislation designed to decrease and monitor TV violence; and

Calls upon the Federal Communications Commission to initiate hearings on violence in the media, and to consider as part of those hearings the establishment of guidelines for broadcasters to follow during prime time and children's viewing hours; furthermore, the FCC should use its licensing powers to ensure broadcasters' compliance with guidelines on violence and establish a strict procedure to levy fines against those licensees who fail to comply.

Adopted by the Membership of the National Association of Secondary School Principals, February 1994.

[From the American Medical Association, Washington, DC, Feb. 2, 1995]

AMA SUPPORTS THE CHILDREN'S MEDIA PROTECTION ACT OF 1995

(By Robert E. McAfee, MD, President, AMA)

''As President of the American Medical Association, and on behalf of our 300,000 physician and medical student members, and the members of our Alliance, I am pleased to support the Children's Media Protection Act of 1995, which Senator Kent Conrad will introduce today.

''Violence is a major medical and public health epidemic in America. Each year, an estimated 50,000 deaths are attributable to violence in the form of homicide and suicide. The United States ranks first among industrialized nations in silent death rates.

''We are a people living in fear. Which of us has not been haunted by dark thoughts we try to ignore: Will my 9-year-old be safe today in her classroom? Could my father be the victim of a drive-by shooting as he walks the dog? Will I be the next car-jacking victim? My sister a victim of domestic violence? No one can disagree: violence in America is out of control.

''Certainly, the root causes of violence are varied and debatable. But over the past two decades, a growing body of scientific evidence has documented the relationship between the mass media and violent behavior. Report after report brings us to the same conclusion: programming shown by the mass media contributes significantly to the aggressive behavior and to the aggression-related attitudes of children, adolescents, and adults.

''It is estimated that by the time children leave elementary school, they have viewed 8,000 killings and more than 100,000 other violent acts. Children learn behavior by example. They have an instinctive desire to imitate actions they observe, without always possessing the intellect or maturity to determine if the actions are appropriate. This principle certainly applies to TV violence. Children's exposure to violence in the mass media can have lifelong consequences.

''We must take strong action now to curb TV violence if we are to have any chance of halting the violent behavior our children learn through watching television. If we fail to do so, it is a virtual certainty the situation will continue to worsen. The time for action is now.''

CITIZENS TASK FORCE ON TV VIOLENCE RECOMMENDATIONS FOR ATTORNEY GENERAL JANET RENO

Adoption of Entertainment Media Violence Code;

Parental Involvement;

FCC Hearings;

Children's Television Act;

Viewing Violent Television Programming in Prisons;

White House Conference on Violence; and

Continuation of Television Industry Discussions.

UNITED STATES SENATE,
Washington, DC, December 15, 1993.

Hon. JANET RENO,
Attorney General of the United States, Department of Justice, Washington, DC.

DEAR MADAM ATTORNEY GENERAL: Pursuant to your discussions on November 22, 1993 with members of the Citizens Task Force on TV Violence, I am very pleased to enclose specific recommendations that members of the coalition believe you and other members of the Interagency Working Group on Violence should carefully examine as you consider the Federal response to the horrible violence in society, including violence in the entertainment media.

These recommendations are endorsed by the following organizations, all members of the Citizens Task Force on TV Violence—

National Association of Elementary School Principals.

National Association of Secondary School Principals.

American Medical Association.

American Medical Association Alliance.

National Child Care Association.

Parent Action.

American Academy of Child and Adolescent Psychiatry.

National Foundation To Improve Television.

National School Boards Association.

National Association For Family and Community Education.

American Psychiatric Association.

Americans For Responsible Television.

National Association For The Education Of Young Children.

National Association of Social Workers.

Future Wave.

National Council of Churches.

Alliance Against Violence in Entertainment For Children.

National Coalition On Television Violence.

National Council for Children's TV and Media.

National Parent Teacher Association (PTA).

Letters and more detailed comments in support of the recommendations from Future Wave, the National Sheriffs Association, the National PTA, the International Association of Chiefs of Police, and the Center For Media Education are also attached for your consideration.

We are most grateful for your support on this issue.

Sincerely,

KENT CONRAD,
U.S. Senator.

RECOMMENDATIONS FOR ATTORNEY GENERAL JANET RENO/INTERAGENCY WORKING GROUP ON VIOLENCE FROM CITIZENS TASK FORCE ON TV VIOLENCE

1. ADOPTION OF ENTERTAINMENT MEDIA VIOLENCE CODE

We support the adoption of a Code, similar to the Code recently announced by the Canadian Radio and Telecommunications Commission and the Canadian Association of Broadcasters, understanding that such a Code would be best developed through a collaborative effort between Government and the television, cable and motion picture industries.

We suggest the formation of an Action Task Group, comprised of Government, television, cable, motion picture industry and public interest representatives, and television advertisers to develop the Code.

Certain features of the Code would be a matter of the broadcasters, cable programmers and motion picture industry representatives exercising voluntary judgements to program in the public interest, such as a general agreement not to program gratuitous violence and to exercise severe restraints on violence with respect to children's programming.

However, we feel that the Code should contain a ''safe-harbor'' rule to the effect that gratuitous dramatized violence, including violent commercials for movies or upcoming shows, would not be programmed on broadcast or cable television between the hours of 6:00 a.m. and 10:00 p.m., and that such a rule would be fully enforceable by the Federal Communications Commission (FCC) as a regulation that is narrowly drawn to further a compelling state interest, i.e., the protection of children under the age of 12. Compliance with such a rule would be a factor taken into account when the FCC considers renewal of licenses in the case of broadcast TV, and would be enforced by fines in the case of cable TV.

Finally, in the event that the television industry refuses to cooperate in the development of such a Code, then we believe that the FCC (in collaboration with Congress) should design and implement appropriate regulations that will withstand judicial scrutiny to protect children under the age of 12 from the demonstrated harm of TV violence.

2. PARENTAL INVOLVEMENT

We support steps which would work to empower parents to more effectively monitor

and control what their young children view on television. These recommendations include—

Mechanical/electronic devices installed in television sets or cable boxes that would enable parents to block out television programming (cable or broadcast) that contains ''V'' rating. We believe such a device would be more effective than present lockout devices (devices that can lock out a particular channel or program) which presupposes parental participation in the selection of programming, which is not the case in so many of our nation's homes.

Viewer warnings. Audio and visual warnings of programming containing gratuitous dramatized violence between 6:00 a.m. and 10 p.m. would be telecast before the program and at each commercial break until 10:00 p.m. Superimposed warnings would be displayed continuously during programming containing gratuitous violence.

Violence Rating System. We support the development (by The Action Task Group referred to above) and implementation of a rating system that would classify programs on the basis of their violent content and that such ratings be made available to parents through TV guides, listings, etc. We suggest that such ratings would, in the first instance, be assigned by the programmers themselves, and that only in the event of a breach of their good faith responsibility to assign proper ratings, would the FCC become involved.

3. FCC HEARINGS

We support and urge that the FCC hold hearings on the issue of television violence, most particularly on proposed voluntary and regulatory solutions to some, in several forums around the country. From these hearings the FCC would hone a definition of ''television violence'' as well as gather the necessary data to support the Code and the basis of any regulations that become part of the Code.

4. CHILDREN'S TELEVISION ACT

We support and urge that the FCC continue with the initiative to strengthen and enforce the FCC's rules promulgated in implementing the Children's Television Act, in order that beneficial programming for children be increased to provide a real alternative to television violence. We also urge that such programming include materials to educate and inform children about the effects of violence and media violence in particular. In addition, we recommend public service announcements to educate viewers about the effects of violence generally, and media violence in particular.

5. VIEWING VIOLENT TELEVISION PROGRAMMING IN PRISONS

We suggest that one step that could be taken immediately on the issue of television violence and its adverse effect on our society would be to end the availability of violent TV programs in prisons.

6. WHITE HOUSE CONFERENCE ON VIOLENCE

We strongly support the initiative of convening a White House Conference on Violence that would focus on the causes of our epidemic of violence, including media violence. At the session on media violence, there would be included, in addition to the representatives of the television, cable and motion picture industries, the approximately 100 major advertisers on television. We believe that a well-designed initiative of consciousness-raising specifically aimed at these advertisers would be effective in reducing gratuitous violence on television.

7. CONTINUATION OF TELEVISION INDUSTRY DISCUSSION

Since many of the above recommendations and initiatives require the joint cooperation and collaboration of the TV industry, we support the extension of the current antitrust exemption as provided under the Television Program Improvement Act—Public Law 101–650, to permit the continuation of television industry discussions.

By Mr. MURKOWSKI (for himself, Mr. JOHNSTON, and Mr. LOTT):

S. 333. A bill to direct the Secretary of Energy to institute certain procedures in the performance of risk assessments in connection with environmental restoration activities, and for other purposes; to the Committee on Energy and Natural Resources.

THE DEPARTMENT OF ENERGY RISK MANAGEMENT ACT OF 1995

Mr. MURKOWSKI. Mr. President, let me acknowledge my colleague, Senator LOTT, who has spoken on the necessity of the legislation which we are introducing today, the Department of Energy Risk Management Act of 1995.

I am very pleased to rise today to introduce the Department of Energy Risk Management Act of 1995 for myself, Senator JOHNSTON, and Senator LOTT. Congress needs to require agencies to use sound science, risk assessment, and cost-benefit analysis in the regulatory decision-making process.

So often, as you know, Mr. President, decisions are made on the basis of emotion. The group that speaks the loudest, has the most numbers, or makes the most outlandish statements influences the decision, instead of decisions being made on sound science. If we cannot depend on scientists who spend a portion of their lives becoming experts on a particular subject, we certainly cannot depend on the short span of attention that we have as politicians as we attempt to evaluate the merits of some very difficult and sophisticated subjects.

One of the difficulties, of course, is to get the scientific community to step forward and put their reputation on the line behind, if you will, their recommendations. So often, we find a situation where the scientists say, ''Well, if I had another appropriation, I could study that a little bit more and probably give you a little more definitive answer.'' Decisions have to be made every day. You and I, Mr. President, have to vote up and down. We cannot vote maybe. We have to make some decisions. With the regulatory process that has run amuck in this country today these decisions are not being made competently and are not being made on the basis of the best information available. We cannot seem to get the scientific community to bear the responsibility for their advice to those of us who have to vote yes or no.

What are we really talking about? This is not a complicated concept. This is risk analysis, cost benefit, and every time you pick up a can of soup or you go buy some crackers it tells you if you have fat soup, skinny soup, or crackers with sodium in them. But with risk assessment and cost-benefit analysis in the application of a permit by the Environmental Protection Agency and various other agencies, you do not know what the cost is. You do not know what the benefit is. You do not know what the risk is.

So this legislation would simply mandate that the public have awareness when the administrative agencies come down with their evaluation of the permitting process as to what the risk is and what the cost is. It is perfectly reasonable. Yet there is a tremendous concern out there among America's environmental community that somehow this will dismantle our environmental laws. What an outlandish generalization.

So I think, Mr. President, we need to require the agencies to use sound science, risk assessment, and cost-benefit analysis in the regulatory decision-making process. This legislation applies to environmental restoration activities conducted by the Department of Energy [DOE]. Although the scope of this bill applies to DOE cleanups, we hope to have the risk assessment and cost-benefit analysis debate cover all agencies' activities. We are coordinating our legislative effort with other legislative efforts.

In the last Congress Senator JOHNSTON offered an amendment to the EPA Cabinet level bill in the spring of 1993. At the same time the Johnston amendment was adopted, I offered an amendment requiring cost-benefit analysis that was agreed to by the Senate. I have continued to look for ways to improve and refine our regulatory decisionmaking process. Senator LOTT also introduced legislation last Congress that is incorporated into our bill. Since the last Congress, the momentum for risk assessment/cost-benefit analysis has only intensified and the November elections have brought about renewed interest in advancing risk assessment/cost-benefit analysis legislation.

I hope the agencies out there got the message of what the last election suggested, that the process was out of balance, and it needed correcting.

On January 17, I hosted, along with Senator LOTT, Representative CRAPO, and Representative KAREN THURMOND, the first meeting of a bipartisan, bicameral Regulatory Reform Caucus now made up of 35 Representatives and some 12 Senators. The caucus wants a proactive strategy to require agencies to use sound science, risk assessment, and cost-benefit analysis in the regulatory decisionmaking process.

At that meeting we heard from two excellent speakers. John Stossel of ABC News spoke persuasively about how the public's perception of environmental and health risks affects our overregulation of those risks. Mr. Stossel showed a chart that broke down how much given risks shorten the average life. It is interesting to note that we spend billions of dollars regulating toxic waste sites and there are lots of news stories about places, like Love Canal. But, even based on the most extreme estimates provided by

environmental organizations toxic wastes are calculated to shorten the average life by just 4 days. Other risks shorten the average life span by years, yet we do not regulate them.

Dr. John Graham, Director of the Harvard Center for Risk Analysis, gave an objective view of how government overregulates our lives and businesses. I was particularly impressed with Dr. Graham's point that over 80 percent of Americans favor better risk analysis in environmental policy. And, as Dr. Graham has indicated, risk and cost-benefit analysis is the key to sound environmental policy of the future. In fact, I think it is fair to say that incorporation of sound science, detailed and well communicated assessments, cost-benefit analysis, and the prioritizing of our limited resources is the environmental policy of the future. It is a commonsense policy that is here to stay.

American businesses spend more than $150 billion annually just to comply with environmental laws—costs that increasingly strain U.S. competitiveness. Risk-based regulations rely on worst-case scenarios and ignore the best science, producing elaborate, expensive regulation of unimportant problems.

Imagine, Mr. President, if we relied on a worst-case scenario. We would not walk outside. We would not be in this building. Worst case means the worst possible case, whether it be flood, earthquake, you name it.

So risk-based scenarios really are scenarios that ignore best science contrary to the real world. As a result, the Federal Government is forcing the expenditure of billions of dollars by local government and industry on these excessively hypothetical and exaggerated perceptions of risks.

The intent of the policy of incorporating risk assessment and cost-benefit analysis into the decisionmaking process is to ensure better, more cost-effective regulations and decisions over the long term. Again, it is the smart way to make sure we get the most value for our limited Government resources, especially in a time where the American public is unequivocally demanding a smaller Federal bureaucracy and less Government control of their lives.

A couple of examples, Mr. President, to liven up the morning. I am told that a Kansas City bank was ordered by Federal regulators to put a braille keypad on drive-through ATM, automatic teller machines.

A little food for thought. The U.S. Department of Agriculture, in another case, required California farmers to dispose of millions of pounds of otherwise good peaches and nectarines simply because they were smaller than Federal standards permitted. Fruit that could have been given away to the needy had to be left to rot.

In Boise, ID, a plumbing contractor was penalized by OSHA because proper safety precautions were not taken by the employees, who successfully rescued a suffocating construction worker from a collapsed trench. The $7,785 fine was rescinded due to public outrage. Can you imagine that?

A self-employed truck mechanic in Morrisville, PA, was fined $2,200 and sentenced to 3 years in jail for hauling away 7,000 old tires and rusting cars and placing clean fill on his own occasionally wet property without a Federal permit, because it was classified as a ''wetlands.'' The EPA argued the property was wetlands because of a stream—dry for most of the year—was partially trapped by the discarded junk and created several pools of water.

I could go on and on with those horror stories, Mr. President, but I know you are familiar with them as well.

Finally, the legislation Senator LOTT, Senator JOHNSTON, and I have put together on risk assessment/cost-benefit would accomplish several important goals.

First, the legislation establishes clear principles to be followed by the Department of Energy. It does not set up a new bureaucracy, but it requires specifics when it performs risk assessments, and they include the consideration and discussion of data that may or may not specifically point to a health risk; precise guidelines for the use of assumptions to bridge some of the data gaps; and most importantly, assessments that are objective and unbiased.

Second, the bill establishes principles for risk characterization that will allow for better understanding and communication, so the public can read what the risk is, like they can read the risk if they want fat soup or skinny crackers, because it is on there. DOE must issue a final regulation implementing the risk assessment and risk characterization principles. DOE must develop a plan to review and revise early risk assessments, which shall include a process by which members of the public may petition the DOE for review of particular risk assessments.

In addition to establishing a risk assessment procedural framework, the bill would also require the Department to apply the results of those assessments in significant ways that will ensure safer, more efficient and more cost-effective cleanup. Any plan, assessment, or record of decision to conduct an environmental restoration activity must go through a cost-benefit analysis. The Secretary is going to have to certify that the analysis is based upon the best reasonable information; the analysis is objective and unbiased; the environmental restoration activity significantly reduces the targeted risk; no alternative environmental restoration activity is more cost-effective; and the environmental restoration activity is likely to reduce benefits that justify its cost. The Department must prioritize resources to address the most serious and most cost-effective risks first.

We intend to expand the scope of this legislation to apply to regulations and all agencies, to provide for an independent and external peer review process.

I do not want to complicate this with a lot of words. We are simply asking for a process that the public can understand and it is almost like truth-in-lending, which has never been applicable to the regulatory process. That is what we propose in this legislation.

I ask unanimous consent at this time to have printed in the RECORD some of the risk comparisons that help to illustrate the importance of having comparative risks available to the public, and an article entitled ''Unloading Excess Regulations,'' by Murray Weidenbaum, which appeared in the Journal of Commerce on January 27, 1995.

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

WHY WE HAVE TO CHOOSE WHICH RISKS ARE WORTH REDUCING

Activity	Cost per death averted
THIRD WORLD COUNTRIES	
Diphtheria immunization (Gambia)	$87
Malaria prevention (Africa)	440
Measles immunization (Ivory Coast)	850
Improved health care	1,930
Improved water sanitation	4,030
Dietary supplements	5,300
UNITED STATES, NON-ENVIRONMENTAL	
Improved traffic signs	31,000
Cervical cancer screening	50,000
Improved lighting	80,000
Upgrade guard rails	101,000
Mobile intensive care units	120,000
Breakaway sign supports	125,000
Lung cancer screening	140,000
Breast cancer screening	160,000
UNITED STATES, ENVIRONMENTAL REGULATIONS	
Asbestos ban	110,700,000
Benzene NESHAP (revised waste operations)	168,200,000
1,2 dichloropropane drinking water standard	653,000,000
Hazardous waste land disposal ban (1st 3rd)	4,190,400,000
Municipal landfill standards (1988 proposed)	19,107,000,000
Formaldehyde occupational exposure limit #2	86,201,800,000
Atrazine/alachlor drinking water standard	92,069,700,000
Hazardous waste listing for wood-preserving chemicals	5,700,000,000,000

Sources: Bernard L. Cohen, ''Perspectives on the Cost Effectiveness of Life Saving,'' in Jay H. Lehr, Rational Readings on Environmental Concerns, pp. 462–465. (Author acknowledges that many of these numbers are only estimates and depend on other factors) John F. Morrall III, ''A Review of the Record,'' Regulation 10 (2) (1986), p. 30. Updated by Morrall, et al. (1990) and printed in U.S. Chemical Industry Statistical Handbook 1992, p. 141.

RANKING POSSIBLE CANCER HAZARDS

Low levels of exposure to man-made chemicals means the risk they pose is very small compared to that of nationally occurring chemicals. The figures below assume that experiments on laboratory animals are reliable indicators of human carcinogenic hazards.

Source and daily exposure	Risk factor
Wine (one glass)	4,700.0
Beer (12 ounces)	2,800.0
Cola (one)	2,700.0
Bread (two slices)	400.0
Mushroom (one, raw)	100.0
Basil (1 gram of dried leaf)	100.0
Shrimp (100 grams)	90.0
Brown mustard (5 grams)	70.0
Saccharin (in 12 oz of diet soda)	60.0
Peanut butter (one sandwich)	30.0
Cooked bacon (100 grams)	9.0
Tap water (one liter)	1.0
Additives and pesticides in other food	0.5
Additives and pesticides in bread and grain products	0.4
Coffee (one cup)	0.3

Source: Human Exposure Rodent Potency (HERP) index, multiplied by 1000, based on Bruce Ames et al., ''Ranking Possible Carcinogenic Hazards,'' Science 236 (April 17, 1987), page 271. See article for explanation of methodology and interpretation of results.

ODDS OF DYING FROM VARIOUS CAUSES

[Risk per 1 million population, U.S.]

Causes	Risk per million
Real risk of death this year caused by:	
Being murdered in Washington, DC (residents)	760.0
Chronically abusing alcohol	600.0
Being in a car accident	200.0
Being in a home accident	110.0
Being murdered	92.0
Giving birth to a child (women)	66.0
Being electrocuted	3.0
Being struck by lightning	1.6
Drowning in a bathtub	1.5
Hypothetical risk of death from cancer caused by:	
Drinking one can of light beer per day for one year	20.0
Eating one peanut butter sandwich per day for one year	10.0
Living next door to a nuclear power plant for 70 years (NCI)	10.0
Lifetime exposure to pesticide residues (EPA)	3.0
Lifetime exposure to pesticide residues (Doll and Peto)	<1.0
Lifetime exposure to landfill emissions (EPA)	<1.0
Lifetime exposure to emissions from incinerators (EPA)	<1.0

Sources: John and Sean Paling, Up to Your Armpits in Alligators? (Gainesville, FL: The Environmental institute) 1993; Statistical Abstract of the United States, 1992, Table 123; National Cancer Institute, ''Highlights of NCI's Carcinogenesis Studies,'' Cancer Facts, June 23, 1993, p. 7; Sir Richard Doll an Richard Peto, Journal of the National Cancer institute 66 (6) (June 1981); Jennifer Chilton and Kenneth Chilton, ''A Critique of Risk Modeling and Risk Assessment of Municipal Landfills Based on U.S. EPA Techniques,'' Waste management & Research 10 (1992), pp. 505–516.

[From the Journal of Commerce, Jan. 27, 1995]

UNLOADING EXCESS REGULATIONS

(By Murray Weidenbaum)

ST. LOUIS.—The time is ripe for a new round of reform in government regulation of business.

The limited reductions of transportation regulation carried out in the late 1970s and early 1980s are ancient history, and the 1990s to date have been dominated by a new round of expensive and burdensome regulation of the private sector.

The Occupational Safety and Health Administration is moving forward with one of the most ambitious regulatory agendas in its history, including an indoor-air-quality proposal the agency estimates would cost $8 billion a year.

The Antitrust Division of the Justice Department is hiring 25 new lawyers, after adding 34 attorneys and 60 paralegals since mid-1992.

All this pales in comparison with the escalation of environmental and workplace regulation taking place in the United States.

It costs about $150 billion a year to meet the directives of the Environmental Protection Agency. And the impact on the economy of employment regulation, such as civil rights enforcement and affirmative action requirements, is estimated at up to $200 billion a year.

What really hurts is that many of the costs associated with regulatory programs are extremely frivolous from the viewpoint of achieving any serious public policy objective.

Here are just a few examples of the many absurd requirements imposed on U.S. businesses:

A Kansas City bank was ordered by regulators to put a Braille keypad on a drive-through ATM, or automatic teller machine.

The U.S. Department of Agriculture required California farmers to dispose of millions of pounds of otherwise good peaches and nectarines simply because they were smaller than federal standards permitted. Fruit that could have been sold or given away to the needy had to be left to rot.

In Boise, Idaho, a plumbing company was penalized by OSHA because ''proper'' safety precautions were not taken by the employees who successfully rescued a suffocating construction worker from a collapsed trench. The $7,875 fine was eventually rescinded due to public outrage.

A self-employed truck mechanism in Morrisville, Pa., was fined $202,000 and sentenced to three years in jail for hauling away 7,000 old tires and rusting car pans and placing clean fill on his own, occasionally wet, property without a federal permit. The EPA argued the property was a wetland because a stream—dry for most of the year—was partly trapped by the discarded junk and created several pools of water.

To respond to the critics, over the years many efforts have been made to improve the process of government regulation. However, virtually all the changes have focused on executive branch rule-making.

But truly reforming government regulation means far more than just improving the way regulatory agencies carry out the tasks assigned to them by Congress. In order to reduce the very large and often avoidable economic burdens imposed by regulation, policymakers need to focus on the birth stage of the rulemaking process.

The crucial action occurs, for example, when the legislature enacts an 800-page Clean Air Act with unrealistic timetables and an almost endless array of requirements.

No amount of executive branch analysis performed afterward can adequately deal with the problem.

It is up to Congress itself to weigh carefully the results of benefit-cost analysis before it enacts a regulatory statute and also to ascertain that, if a new law is required, its provisions are as cost-effective as feasible.

Congress also should examine the cumulative effects of government regulation on the performance of the economic system. But rather than tackling piecemeal the hundreds of regulatory statutes on the books, Congress should write several new laws that will reform regulation across the board.

Five key changes would be especially helpful.

Congress should require benefit-cost analysis in each key stage of the regulatory process, from writing the laws to issuing regulations and reviewing the operation of programs.

When a law requires citizens or organizations to obtain a permit, agencies should be forced to act in a timely fashion. If an agency cannot process an application by the dead-line, the permit should be granted automatically.

Congress should emphasize objectives sought rather than precise methods to be used for each regulatory program.

Detailed laws that place ''legislative handcuffs'' on agencies hamper more cost-effective solutions. However, legislators should avoid writing laws so vague that they know in advance the courts will have to wrestle with the details.

The federal government should use risk assessment to set priorities for achieving greater protection of health, safety and the environment in the most cost-effective manner.

All risks are not equally serious. Government should focus on the most serious hazards. Sound science and comparative risk analysis should be drawn upon during the legislative drafting process.

Congress should promote regulatory justice Legislators and regulators should avoid imposing costs on innocent parties. Where regulation substantially reduces property rights, compensation should be paid.

Now is an especially good time for Congress to embark on significant reform of government regulation. Such action would respond to widespread dissatisfaction with the high cost and limited benefits of many governmental activities.

Mr. MURKOWSKI. I urge my colleagues to consider the merits of this legislation. I assure you that the public supports it almost unanimously, because the system is simply out of balance. We need to address correctly the forms, cost benefits and risk analyses, which is one way to do it.

Mr. JOHNSTON. Mr. President, I am pleased to cosponsor, along with Chairman MURKOWSKI and Senator LOTT, the Department of Energy risk Management Act of 1995.

This bill builds upon work that I began in April of 1993, when I offered an amendment to the EPA Cabinet bill that would have required risk assessment and cost/benefit analysis with respect to EPA regulations. That amendment passed the Senate by a vote of 95–3. However, it did not become law because of the opposition of environmental advocacy groups and several House committee and subcommittee chairmen.

I then spent nearly a year working with those who had concerns about the amendment. The result was a revised amendment, supported by Senators BAUCUS and MOYNIHAN, that met every legitimate concern. In May of last year, I offered the revised amendment to the safe drinking water bill, and it passed by a vote of 90–8.

That simple amendment would have required EPA to do a risk assessment and cost-benefit analysis when preparing regulations that have an impact on the economy of $100 million or more. As part of the process, the amendment provided that the Administrator must certify that the best reasonably obtainable science was used, that the regulation would actually reduce the risk addressed, that the regulation was the most cost-effective alternative, and that the benefits of the regulation justified the costs. It changed no environmental laws, and created no new causes of action. It was simply a truth-in-regulating provision.

Unfortunately, environmental advocacy groups and certain members of the house continued to oppose the revised provision, and refused to pass the safe drinking water bill with my amendment. As a result, the safe drinking water bill died along with the amendment. This, in my opinion, was one of the sorriest chapters of the 103d Congress.

The Republicans then picked up the risk assessment and cost-benefit issue and included it in their Contract with America. As a result, it has become a high Republican priority, and is due to be acted upon during the first 100 days of this Congress.

Although I am very pleased by the attention that the risk issue is now receiving, and fully agree that legislation should be enacted promptly, I urge my Republican colleagues to not get carried away. If we do this right, we will inject much-needed discipline into the process of setting environmental priorities. But if we go too far, we will bring the regulatory process to a grinding halt, a result that is not in the best interest of the public or the regulated industries.

The bill we are introducing today is narrowly drawn to apply only to the cleanup activities of the Department of Energy, such as those at Hanford, WA, and Rocky Flats, CO. We drafted the bill in this manner because the cleanup of DOE weapons sites is one of the toughest issues facing the Energy and Natural Resources Committee, and Chairman MURKOWSKI and I want to focus the Energy Committee's attention on the need for risk assessment and cost-benefit analysis in prioritizing that cleanup effort.

We feel that the cleanup problem at Department of Energy facilities is a perfect example of our inability to set rational priorities when it comes to environmental protection. Currently, we are spending $6 billion a year of our constituents' money and accomplishing virtually nothing in terms of actual cleanup. If we can set risk-based priorities for the cleanup of those facilities, and then implement those priorities in a cost-effective fashion, that would be a major accomplishment.

This is not to say that Chairman MURKOWSKI, Senator LOTT, and I feel that risk assessment and cost-benefit analysis should be applied only to the cleanup of Department of Energy facilities. Chairman MURKOWSKI and Senator LOTT will soon introduce an amendment to the bill, which will follow the bill to the Energy Committee. The amendment will apply the requirements of the bill to all Federal agencies, including EPA. The bill and the amendment will then be the subject of hearings in our committee.

Although I agree with the thrust of the amendment, I chose not to be a cosponsor for two reasons. First, I want to reserve judgment on whether risk assessment and cost-benefit analysis should be required of all Federal agencies. I am confident that they should apply to EPA and the Department of Energy, but I think we need to carefully examine the issue of applying those principles to all other Federal agencies.

Second, and perhaps more important, I am concerned about the judicial review provision that Chairman MURKOWSKI and Senator LOTT are expected to include in their amendment. That provision states, in part, that,

> Any decision, regulatory analysis, risk assessment, hazard identification, risk characterization, or certification provided for under this act is subject to judicial review in the same manner and at the same time as the underlying final action to which it pertains, * * *

My concern is that this provision may lead to a substantial increase in litigation. As my colleagues may recall, the judicial review provision that I included in last year's amendment was quite narrow, and I remain convinced that more litigation hurts rather than helps our efforts to set rational environmental priorities. Therefore, Chairman MURKOWSKI, Senator LOTT, and I agreed that we would not include a judicial review provision in our bill, and that I would not cosponsor the amendment containing their judicial review provision. Instead, we will continue to study this crucial issue, with the expectation that we can resolve it before reporting a bill.

I also want to briefly explain why the bill has no dollar threshold. Last year, my amendment applied only to EPA regulations that have an effect on the economy of $100 million a year or more. The bill we are introducing today, however, does not contain a dollar threshold because the cleanup activities of DOE are so easily divided into small increments. In other words, there was concern that even a relatively low threshold could be evaded by dividing a cleanup plan into units that fit under the dollar threshold The issue of the appropriate threshold, both as to DOE cleanups and as to regulations issued by other agencies, is one that will need careful examination when we hold hearings on this legislation.

Mr. President, it often takes more than one Congress to enact important legislation, and this matter has proven to be no exception. In a recent article entitled ''Congress Discovers Risk Analysis,'' Terry Davies of Resources for the Future begins by stating that:

> The 103d Congress, which concluded in November 1994 in a blaze of partisan bickering, will be forgotten for many reasons by those interested in environmental policy. With the exception of creating a new national park in the California desert, Congress failed to take action on a long list of environmental issue. However, the 103d Congress will be memorable on at least one environmental count: it was the Congress that discovered risk analysis.

Now that we have discovered risk assessment, I urge that it is the task of the 104th Congress to legislate on the subject with all deliberate speed. Given that we spend almost $150 billion a year on environmental protection, we cannot afford to delay in setting priorities based on the extent of risk posed to the public and the environment.

I ask unanimous consent that Mr. Davies' article be included in the RECORD.

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

[From Resources for the Future, Winter 1995]

CONGRESS DISCOVERS RISK ANALYSIS

(By Terry Davies)

The 103d Congress, which concluded in November 1994 in a blaze of partisan bickering, will be forgotten for many reasons by those interested in environmental policy. With the exception of creating a new national park in the California desert, Congress failed to take action on a long list of environmental issues. However, the 103d Congress will be memorable on at least one environmental count: it was the Congress that discovered risk analysis.

Congress has regulated risk for decades. For example, the national ambient air quality standards called for in the Clean Air Act of 1970 are required to protect against health risks to sensitive populations. The Toxic Substances Control Act, enacted in 1976, was probably the first law to explicitly use ''unreasonable risk'' as the criterion for government to take regulatory action. But Congress has never concerned itself with how risks were calculated or with comparing different risks. Risk as a general concept was of concern but, with a few notable exceptions, risk analysis was not. In 1993–1994, this situation changed dramatically.

Below I review some of the efforts in the 103d Congress to deal with risk analysis; I then identify the major factors underlying lawmakers' interest in such analysis. I also outline what risk legislation can (and cannot) accomplish and distinguish among the uses of risk assessment, two issues about which Congress seems to be confused.

LEGISLATIVE RISK PROPOSALS

More than a dozen bills dealing with risk analysis were introduced in the 103d Congress. Notable among these were bills introduced by Senator Daniel Patrick Moynihan (D–New York) and Representative Herbert C. Klein (D–New Jersey). Even more notable was an amendment to S.R. 171, a bill proposed by Senator John Glenn (D–Ohio) to make the U.S. Environmental Protection Agency (EPA) a cabinet department.

Senator Bennett Johnston (D–Louisiana) introduced the amendment, which would have required that EPA conduct a risk analysis for each of its regulations and compare the risk reduction to be achieved by the regulation with the cost of the legislation and with other types of risks. The Senate overwhelmingly passed it by a 95–3 vote, but later the content of the Johnston amendment was modified several times. (The original version required risk analysis of all final regulations; later versions made the requirement applicable only to major regulations and to proposed rather than final regulations.)

Legislators proposed adding this amendment to almost every pending environmental bill. The lack of action on environmental legislation during the 103d Congress was due, to a great extent, to an inability to reach an acceptable compromise on the amendments's language. Junior members of the House surprised the leadership by defeating the rule under which the EPA cabinet bill would go to the House floor for a vote, in part because the rule would have precluded consideration of the Johnston amendment.

The basic requirements of the Johnston amendment were similar to the cost-benefit requirements already called for by a Clinton administration executive order (E.O. 12866). The Johnston amendment's one novel requirement was that the risks to be regulated be compared with other risks—a challenging requirement but not one that would bring to a halt all environmental regulatory efforts.

Senator Moynihan's bill (S.R. 110), the ''Environmental Risk Reduction Act of 1993,'' would have required the EPA administrator to establish a Committee on Relative Risks to ''identify and rank the greatest environmental risks to human health, welfare, and ecological resources,'' as well as a Committee on Environmental Benefits to provide expert advice on estimating the quantitative benefits of reducing risks. In addition, the bill would have required EPA to develop ''guidelines to ensure consistency and technical quality in risk assessments.'' Finally, the bill would have required EPA to establish a research program on environmental risk assessment and to create an Interagency Panel on Risk Assessment and Reduction to coordinate federal efforts.

Moynihan's bill, which was aimed at improving the quality and visibility of risk assessment, emphasized comparative risk analysis of the problems addressed by different EPA programs, rather than risk analysis of the problems addressed by individual regulations. A bill introduced by Representative

Klein contained some of the same provisions as the Moynihan bill but focused on improving the quality of risk assessments done to support individual regulations. Klein's bill (H.R. 4306) would have established a Risk Assessment Program within EPA to develop, review, and update risk assessment guidelines. Other elements of the Klein bill included research and training in risk assessment and a pilot project on comparative risk analysis.

The Klein bill originally was supported by the Clinton administration. Environmentalists, who have generally opposed any efforts to promote risk analysis, stated that they would not oppose the bill. However, the House Committee on Science, Space, and Technology made a series of changes in the bill that caused both the administration and the environmentalists to oppose its passage.

The offending changes were put forward by congressional members and staff who believe that EPA risk assessments are generally biased in favor of regulation and exaggerate the degree of risk. The changes would have done two things. First, they would have made both risk assessment guidelines and EPA's risk assessments potentially subject to judicial review. In withdrawing support for the bill, EPA stated that the changes could make risk assessment ''more a construct of the courts than of sound science.'' Second, the changes would have directed EPA to use ''the most plausible'' and ''unbiased'' assumptions to calculate ''central estimates of risk'' and to employ the ''best information.'' Although these changes sound innocuous, they could have changed EPA's risk assessment methodology in fundamental ways, especially when combined with the threat of litigation.

In the closing days of the session, Congress enacted a U.S. Department of Agriculture reorganization bill with a version of the Johnston amendment attached to it. However, the amendment applies only to environmental and health regulations promulgated by the Department of Agriculture. No other risk legislation passed, but the issues raised in the debate over the Klein bill will be high on the agenda of the 104th Congress, many of whose Republican members have promised reform of federal regulations as part of the ''Contract with America.'' The reasons for interest in risk have become, if anything, more pressing, and the Republicans have generally been more supportive of risk legislation than the Democrats.

FACTORS UNDERLYING CONGRESS'S INTEREST IN RISK

Why the sudden passion for risk analysis and comparative risk assessment? Several interrelated factors account for Congress's newfound interest.

The first factor is a shift in the public's view of environmental problems. Whether because of the increasing costs of environmental remedies, the rightward shift of the nation's politics, growing cynicism toward all groups and institutions, or other reasons, many people no longer believe that all environmental problems are urgently pressing. The notion of priorities—of some problems being more important than others—has entered the environmental debate.

The second factor is the squeeze being put on some state and local governments by unfunded environmental mandates. These governments have seized upon comparative risk assessment as a potent weapon for fighting expensive and often unwanted federal requirements. In many cases, states and localities believe they can show that they are being required to expend funds on problems that either pose smaller risks than those arising from other problems on which the money could be spent or that pose trivial or nonexistent risks. This ''grass roots'' dimension of the push for comparative risk analysis is politically of great significance.

In Congress, risk analysis also has been linked with the issue of takings, uncompensated restrictions on private land use. Environmentalists have dubbed risk analysis, unfunded mandates, and takings as ''the unholy trinity,'' although risk and takings do not have the direct, substantive connection that risk and unfunded mandates often do. The three have become linked because each potentially could slow or halt federal environmental regulation.

A third factor contributing to the interest in comparative risk is the shortage of public funds at all governmental levels. The shortage emphasizes the need to set priorities and to make hard choices. Not coincidentally, the congressional committees responsible for appropriating money to EPA have been strong supporters of applying comparative risk analysis to different EPA programs (as opposed to different proposed regulations). For these committees, risk analysis holds the promise of providing a rationale and a defense for difficult budgetary choices. At the same time, the results of risk analysis are sufficiently broad and uncertain that the committees do not have to worry about losing control over budgetary decisions.

WHAT RISK LEGISLATION CAN ACCOMPLISH

No other congressional issue is marked more by confusion and misinformation than the current debate over risk assessment. One reason is that legislators seem confused (perhaps in some cases deliberately) about what risk assessment legislation can accomplish.

Members of Congress have an understandable tendency to blame EPA for problems that local constituents have with pollution-control requirements. Since risk assessment supposedly guides EPA decisions, they believe that changing the way risk assessment is done can alleviate the problem of unwanted or unreasonable requirements imposed on local governments and corporations. However, for Congress, in many cases both Shakespeare and the comic strip character Pogo are apt. The fault is not in the stars—Congress has met the enemy and it is them.

The unfunded mandates that have caused the most problems for local governments are those related to drinking water. Communities complain that EPA is requiring them to monitor for chemicals that pose no risk and that the agency is demanding expensive capital investments to deal with nonexistent threats. But most of these difficulties arise from the 1986 amendments to the Safe Drinking Water Act—amendments that *required* EPA to set standards for forty water contaminants within two years of the act's passage and to keep issuing standards for additional contaminants at an equally rapid pace. Congress directed that the standards be set ''as close to the maximum contaminant level goal as is feasible.'' In turn, the maximum contaminant goal is to be set ''at the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety.''

To put it bluntly, Congress should not pass laws that require absolute protection for the public and then complain when EPA promulgates standards that provide such protection. It should not pass laws that require EPA to move rapidly to promulgate numerous regulations and then complain when the agency moves rapidly to promulgate numerous regulations. Implementing the law should not be considered a political crime.

Another ''confusion'' in Congress is that risk drives all environmental decisions. In fact, many environmental regulatory requirements are statutorily determined by technology and thus relatively unaffected by risk findings. For example, the initial standards for controlling hazardous air pollutants under the clean Air Act amendments of 1990 are to be based on the best technologies employed by each type of polluting facility, not on risk. Similarly, many of the regulatory requirements under the Clean Water Act are based on ''best available technology,'' a determination of which is unrelated to risk. EPA actions under these provisions will not be influenced by any changes in risk assessment methods.

USES OF RISK ASSESSMENT

A more general source of confusion in the current debate over risk assessment arises from a failure to distinguish among different uses of risk assessment. At least four different policy uses of risk assessment exist. Each involves different methodologies and raises different problems.

The most common use of risk assessment in policymaking is in regulatory decision-making. For all significant regulations, E.O. 12866 requires the agency proposing the regulation to conduct a cost-benefit analysis. From the perspective of EPA and the other health and safety regulatory agencies, the benefit side of the cost-benefit equation generally is the amount of risk reduced by the regulation as calculated by some type of risk assessment. Within EPA, risk assessment is often used to gauge where to set a standard (although, as noted above, statutory requirements frequently preclude risk considerations), because it is the only way to determine how much (if any) danger a given substance, product, or activity poses.

A second use of risk assessment occurs in Congress' statutory definition of ''acceptable risk.'' Probably the best example of this use is the Clean Air Act, which requires the EPA administrator to promulgate more stringent standards for emissions of hazardous pollutants when the technology-based standards for the emissions ''do not reduce life-time excess cancer risks to the individual most exposed * * * to less than one in one million.

These bright line provisions have been based on quantitative assessment of cancer risk, but cancer may not be the risk that is of most concern. Ecological threats, birth defects, liver damage, hormonal or immune deficiencies, or any of a thousand other problems may be the reason for regulating risk. Because the cancer risk may be irrelevant, gearing the risk standard to cancer may set the standard too high or too low. Risk assessment takes many different forms. Quantitative cancer risk assessment is only one of them and often not the most appropriate one to use.

Another problem is that the bright line, acceptable risk approach assumes a precision that most risk assessments cannot achieve. Risk assessment is still a relatively crude science and depending on which methodological assumptions are used, its results may vary a hundredfold or more. Thus, placing great legal weight on one point estimate of risk is an open invitation to shade the assumptions in a certain direction in order to achieve the desired outcome.

A third use of risk assessment is priority setting for individual risks or regulations, which involves comparing one specific risk to another. Such comparisons can be useful in putting any particular risk into perspective; but two caveats, neither of which has received much attention in Congress, are important to note. The first concerns the crudeness of risk estimates. If the uncertainty range around any point estimate of risk is several orders of magnitude, it frequently will be impossible to establish clearly that one risk is greater than another. The

second caveat relates to the many dimensions of risk other than the amount of damage to health and the environment. These dimensions include whether the risk is undertaken voluntarily, whether the victims can be identified, and whether the nature of the risk is catastrophic—that is, whether great damage occurs at one time, as in a plane crash, or whether less damage occurs and is spread over time, as in car accidents. These dimensions of risk are important politically, psychologically, and even ethically. They need to be taken into account when comparing risks.

The fourth use of risk assessment is priority setting for government programs and budgets. This use was pioneered by EPA in 1987 when it published its report *Unfinished Business.* Senator Moynihan has introduced legislation requiring this type of priority setting to be instituted within EPA. Both the House and Senate appropriations committees for EPA have expressed interest in this approach in the belief that it might provide a ''scientific'' way of making (or justifying) difficult budget choices.

Comparisons of risks regulated by different programs are a useful way to consider priorities, and they hold long-term promise of bringing greater rationality to government budgeting and goal setting. However, we do not have (and may never have) good methods for comparing different types of risks. Comparing health risks with ecological risks, for example, is clearly a value-laden process. Moreover, acting on the results of broad risk comparisons is almost always impeded by individual statutory mandates. Each environmental program has its statutory support, which is designed (in part) to give each program high priority and prevent its being compared to other programs.

THE ROAD AHEAD

Risk assessment can be a powerful tool for improving environmental policy and decisionmaking. Like all powerful tools, however, it can be abused and employed for nefarious purposes.

Most of the risk legislation that has been proposed would have little short-term effect on environmental policy. However, I believe some of the proposals could do major harm to the quality of the science behind regulatory initiatives by making risk guidelines judicially enforceable. Doing so would transform risk analysis from a scientific undertaking to a legal one, would preclude the exercise of scientific judgment on how to conduct risk assessments of individual chemicals, and would be a major obstacle to incorporating scientific advances into risk assessment. In addition, some proposals would make risk assessment information useless to decisionmakers by dictating which risk assessment methodologies are used. Some of these proposals can be interpreted to mean that risk assessments should determine risk to the average person rather than to the most vulnerable people.

However, the discovery of risk analysis by the 103d Congress means that the new Republican Congress has an opportunity to forge legislation that will improve the long-term quality of regulatory decisions and environmental policy. If the varied interests with a stake in environmental policy can reduce the ideological and partisan coloration that has characterized the risk debate so far, and if they can accept both the uses and limitations of risk assessment, the risk debate could lead to a new era of more effective, efficient, and equitable environmental programs.

Mr. LOTT. Mr. President, I rise today to announce that with my colleagues, Senators MURKOWSKI and JOHNSTON, we are introducing the Department of Energy Risk Management Act of 1995.

I believe that most Americans would be shocked and dismayed to discover that Federal agencies every day release and enforce rules that have not been validated with solid, sound, scientific data.

It does not make sense, but unfortunately it is true.

That is why legislation is needed to mandate a commonsense approach.

We have crafted a bill which simply demands that the Department of Energy act in a scientifically responsible manner.

This year's legislation builds on the bill I introduced in the last Congress and the two successful amendments offered by Senator JOHNSTON of Louisiana.

Senator JOHNSTON's amendments were overwhelmingly adopted, and this clearly illustrates the congressional frustration and bipartisan support for stopping Federal agencies which avoid sound science and fiscal responsibility in rulemaking.

Senator MURKOWSKI, as the new chairman of the Energy and Natural Resources Committee, has played a critical role in focusing this legislation. And his committee is an appropriate forum to examine the issue and its consequences.

This year similar legislation was introduced in the House of Representatives and is already receiving scrutiny through hearings.

There is also comparable and more comprehensive legislation being drafted by Senator DOLE, the majority leader.

There are also bills introduced by Senators BAUCUS, MOYNIHAN, and ROTH which touch on the same subject.

Clearly, there is a groundswell of legislative activity to stop Federal agency abuse in the name of science which, more often than not, turns out to be false, questionable, or even misleading.

This deceptive and dishonest regulatory zeal reminds me of the title of an ABC news program by John Stossel—''Are We Scaring Ourselves to Death.''

This program made its point in a compelling manner—Federal rulemaking is seriously flawed.

Our legislation will not add to the confusion. It will not stall scientific advances, and it will not prescribe how to conduct scientific research.

On the contrary, in a nutshell, it will just force transparency and accountability in the rulemaking process and nothing more.

No Federal agency should be afraid of honestly displaying to the American people they are protecting the science, logic, assumptions, and inferences used to establish the rules and standards it imposes.

This is not irresponsible and not burdensome.

Our legislation does permit Americans to: First, challenge existing risk assessments; second, insist on an independent peer review of the risk and its corresponding rule; and third, request the ultimate American right of a trial when there is an honest disagreement.

The existing regulatory system is upside down. Agencies which have a vested interest in promulgating rules cannot be challenged in any public forum on the very foundation and basis for its rules.

Our legislation is not questioning the necessity for the rule or rulemaking. We are just talking about the underlying risk assessments.

Our legislation merely levels the playing field between the benevolent protector and the protected American public. I cannot imagine why this is so threatening, unless there are many rules that cannot pass the red-face test as my coauthor and friend, Senator JOHNSTON, is fond of saying.

Tell me what is so threatening by the words ''scientifically objective and unbiased.''

Maybe the status quo can be characterized, as I believe, as cavalier and arbitrary.

I see peer review as a useful certification function which ends the Federal Government's stifling monopoly over risk assessment methodology and practices. By extending power to scientists from academia, who have no vested interest in the agency, makes good Mississippi sense. Who feels safe when the fox watches the hen house? And that is what is happening now.

All we want to do is restore the public confidence in the rulemaking process and the risk assessment methods.

And, I am confident that this is the same goal of each Senator who is involved in examining this issue.

It serves no useful purpose for regulators to hide their value judgments behind complicated mathematical probabilities which just do not make sense. In the end the American citizen is unable to either comprehend or distinguish the authentic risk.

Our legislation will not bog down the process as opponents will assert. But, like many of the risks subjected to rules, this too is a false argument because only major rules will be subjected to this process.

Our legislation will not gut existing environmental laws as opponents will also claim. Wrong. There is a specific section in the bill which expressly states that no existing statutes will be removed. Although there are a lot that I would like to see removed as we go forward, that is not what this bill does.

Why would opponents advance such shrill and untrue assertions? Perhaps there are regulations which will fail the Johnston red-face test or serve as another illustration for John Stossel to humiliate an agency.

Public policy should not be maintained just to avoid agency embarrassment.

This only perpetuates the harm done to Americans who have lost economic opportunities through misplaced priorities for unfounded risks.

And, even more serious, public dollars have been wasted chasing an agenda rather than valid risks. This has exposed Americans to real risks which could have been corrected long ago.

Risk based decisionmaking is obvious, especially since our Government, and the private sector, spends billions through the regulatory process to protect the environment and human health.

Our country needs a way to choose regulatory priorities, just like families prioritize its spending. This can be done with the cost/benefit provision in this legislation without greater exposure to risks.

Asserting an unfounded risk is not a substitute for informed and thoughtful consideration by accountable officials who work with the public to make balanced decisions.

The Murkowski-Johnston bill gives you accountability and public access.

I am proud of the bipartisan and collaborative effort this legislation represents.

It is a solid commitment to sound rulemaking which will not jeopardize our environment or the health of our citizens.

Our legislation will remove misinformation and public confusion.

I believe the Department of Energy Risk Management Act deserves your serious consideration and support.

So I urge my colleagues to look at this legislation. It has been carefully crafted over a number of months. It is long overdue in my opinion.

I would like to say now that I certainly commend the distinguished Senator from Alaska for the good work he has done. He has already had some preliminary hearings on this. I hope we can move this legislation early in this session.

By Mr. McCONNELL (for himself and Mr. BIDEN):

S. 334. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a law enforcement officers' bill of rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes; to the Committee on the Judiciary.

THE LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS ACT OF 1995

• Mr. McCONNELL. Mr. President, I am pleased to introduce a bill to establish a law enforcement officer's bill of rights. In every city and town, we rely on law enforcement officers to protect our safety. They put their lives on the line for us every single day.

And, often their jobs can be very difficult. The Constitution requires they conduct themselves appropriately, and they are subject to the laws and regulations set out by Congress as well as State and local regulatory bodies. They have to make snap decisions in high pressure situations. If they make the wrong decision, they can be subject to a lawsuit—for violation of the civil rights of a citizen.

While citizens have protection when a law enforcement officer engages in improper conduct, the police officer is often left without any legal rights when subject to disciplinary action. This bill aims to correct that unfairness.

The bill guarantees basic due process rights to law enforcement officers who are subject to investigation or interrogation for noncriminal disciplinary matters. And, let me emphasize that these rights do not apply in an emergency situation where the police officer is suspected of committing a crime or where that officer would be a threat to the safety or property of others. The bill reserves in the chief of police or other local officials the right to immediately suspend an officer who is suspected of committing a serious offense.

But, where there is no criminal conduct and no emergency situation, a police officer should have a right to be informed of his or her misconduct, to answer the charges, and to be represented by a lawyer or other appropriate person. These are basic due process rights that should be guaranteed to those on whom we rely to protect our safety.

Mr. President, there are some 475,000 State and local law enforcement officers who put their lives on the line for the rest of us. Let us give them their basic and fundamental rights.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 334

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 ''Law Enforcement Officers' Bill of Rights Act of 1995''.

SEC. 2. RIGHTS OF LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end the following new section:

''RIGHTS OF LAW ENFORCEMENT OFFICERS

''SEC. 819. (a) DEFINITIONS.—In this section—

'' 'disciplinary action' means the suspension, demotion, reduction in pay or other employment benefit, dismissal, transfer, or similar action taken against a law enforcement officer as punishment for misconduct.

'' 'disciplinary hearing' means an administrative hearing initiated by a law enforcement agency against a law enforcement officer, based on probable cause to believe that the officer has violated or is violating a rule, regulation, or procedure related to service as an officer and is subject to disciplinary action.

'' 'emergency suspension' means temporary action imposed by the head of the law enforcement agency when that official determines that there is probable cause to believe that a law enforcement officer—

''(A) has committed a felony; or

''(B) poses an immediate threat to the safety of the officer or others or the property of others.

'' 'investigation'—

''(A) means the action of a law enforcement agency, acting alone or in cooperation with another agency, or a division or unit within an agency, or the action of an individual law enforcement officer, taken with regard to another enforcement officer, if such action is based on reasonable suspicion that the law enforcement officer has violated, is violating, or will in the future violate a statute or ordinance, or administrative rule, regulation, or procedure relating to service as a law enforcement officer; and

''(B) includes—

''(i) asking questions of other law enforcement officers or nonlaw enforcement officers;

''(ii) conducting observations;

''(iii) evaluating reports, records, or other documents; and

''(iv) examining physical evidence.

'' 'law enforcement agency' means a State or local public agency charged by law with the duty to prevent or investigate crimes or apprehend or hold in custody persons charged with or convicted of crimes.

'' 'law enforcement officer' and 'officer'—

''(A) mean a member of a law enforcement agency serving in a law enforcement position, which is usually indicated by formal training (regardless of whether the officer has completed or been assigned to such training) and usually accompanied by the power to make arrests; and

''(B) include—

''(i) a member who serves full time, whether probationary or nonprobationary, commissioned or noncommissioned, career or noncareer, tenured or nontenured, and merit or nonmerit; and

''(ii) the chief law enforcement officer of a law enforcement agency.

'' 'summary punishment' means punishment imposed for a minor violation of a law enforcement agency's rules and regulations that does not result in suspension, demotion, reduction in pay or other employment benefit, dismissal, or transfer.

''(b) APPLICATION OF SECTION.—

''(1) IN GENERAL.—This section sets forth rights that shall be afforded a law enforcement officer who is the subject of an investigation.

''(2) NONAPPLICABILITY.—This section does not apply in the case of—

''(A) a criminal investigation of a law enforcement officer's conduct; or

''(B) a nondisciplinary action taken in good faith on the basis of a law enforcement officer's employment related performance.

''(c) POLITICAL ACTIVITY.—Except when on duty or acting in an official capacity, no law enforcement officer shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in such activity.

''(d) RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION.—When a law enforcement officer is under investigation that could lead to disciplinary action, the following minimum standards shall apply:

''(1) NOTICE OF INVESTIGATION.—A law enforcement officer shall be notified of the investigation prior to being interviewed. Notice shall include the general nature and scope of the investigation and all departmental violations for which reasonable suspicion exists. No investigation based on a complaint from outside the law enforcement agency may commence unless the complainant provides a signed detailed statement. An investigation based on a complaint from outside the agency shall commence within 15

days after receipt of the complaint by the agency.

''(2) NOTICE OF PROPOSED FINDINGS AND RECOMMENDATION.—At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

''(e) RIGHTS OF LAW ENFORCEMENT OFFICERS PRIOR TO AND DURING QUESTIONING.—When a law enforcement officer is subjected to questioning that could lead to disciplinary action, the following minimum standards shall apply:

''(1) REASONABLE HOURS.—Questioning of a law enforcement officer shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

''(2) PLACE OF QUESTIONING.—Questioning of the law enforcement officer shall take place at the offices of the persons who are conducting the investigation or the place where the law enforcement officer reports for duty, unless the officer consents in writing to being questioned elsewhere.

''(3) IDENTIFICATION OF QUESTIONER.—The law enforcement officer under investigation shall be informed, at the commencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

''(4) SINGLE QUESTIONER.—During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

''(5) NOTICE OF NATURE OF INVESTIGATION.—The law enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any questioning.

''(6) REASONABLE TIME PERIOD.—Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the law enforcement officer.

''(7) NO THREATS OR PROMISES.—Threats against, harassment of, or promise of reward shall not be made in connection with an investigation to induce the answering of any question. No statement given by the officer may be used in a subsequent criminal proceeding unless the officer has received a written grant of use and derivative use immunity or transactional immunity.

''(8) RECORDATION.—All questioning of any law enforcement officer in connection with the investigation shall be recorded in full, in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

''(9) COUNSEL.—The law enforcement officer under investigation shall be entitled to counsel (or any other one person of the officer's choice) at any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

''(f) DISCIPLINARY HEARING.—

''(1) NOTICE OF OPPORTUNITY FOR HEARING.—Except in a case of summary punishment or emergency suspension described in subsection (h), if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the law enforcement officer is entitled to a hearing on the issues by a hearing officer or board prior to the imposition of any disciplinary action.

''(2) REQUIREMENT OF DETERMINATION OF VIOLATION.—No disciplinary action may be taken unless a hearing officer or board determines, pursuant to a fairly conducted disciplinary hearing, that the law enforcement officer violated a statute, ordinance, or published administrative rule, regulation, or procedure.

''(3) TIME LIMIT.—No disciplinary charges may be brought against a law enforcement officer unless filed within 90 days after the commencement of an investigation, except for good cause shown.

''(4) NOTICE OF FILING OF CHARGES.—The law enforcement agency shall provide written, actual notification to the law enforcement officer, not later than 30 days after the filing of disciplinary charges, of the following:

''(A) The date, time, and location of the disciplinary hearing, which shall take place not sooner than 30 days and not later than 60 days after notification to the law enforcement officer under investigation unless waived in writing by the officer.

''(B) The name and mailing address of the hearing officer.

''(C) The name, rank, and command of the prosecutor, if a law enforcement officer, or the name, position, and mailing address of the prosecutor, if not a law enforcement officer.

''(5) REPRESENTATION.—During a disciplinary hearing an officer shall be entitled to be represented by counsel or nonattorney representative.

''(6) HEARING BOARD AND PROCEDURE.—(A) A State shall determine the composition of a disciplinary hearing board and the procedures for a disciplinary hearing.

''(B) A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include at least 1 law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

''(7) ACCESS TO EVIDENCE.—A law enforcement officer who is brought before a disciplinary hearing board shall be provided access to all transcripts, records, written statements, written reports, analyses, and electronically recorded information pertinent to the case that—

''(A) contain exculpatory information;

''(B) are intended to support any disciplinary action; or

''(C) are to be introduced in the disciplinary hearing.

''(8) IDENTIFICATION OF WITNESSES.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall notify the law enforcement officer, or his attorney if he is represented by counsel, not later than 15 days prior to the hearing, of the name and addresses of all witnesses for the law enforcement agency.

''(9) COPY OF INVESTIGATIVE FILE.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall provide to the law enforcement officer, at the law enforcement officer's request, not later than 15 days prior to the hearing, a copy of the investigative file, including all exculpatory and inculpatory information but excluding confidential sources.

''(10) EXAMINATION OF PHYSICAL EVIDENCE.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall notify the law enforcement officer, at the officer's request, not later than 15 days prior to the hearing, of all physical, nondocumentary evidence, and provide reasonable date, time, place, and manner for the officer to examine such evidence at least 10 days prior to the hearing.

''(11) SUMMONSES.—The hearing board shall have the power to issue summonses to compel testimony of witnesses and production of documentary evidence. If confronted with a failure to comply with a summons, the hearing officer or board may petition a court to issue an order, with failure to comply being subject to contempt of court.

''(12) CLOSED HEARING.—A disciplinary hearing shall be closed to the public unless the law enforcement officer who is the subject of the hearing requests, in writing, that the hearing be open to specified individuals or the general public.

''(13) RECORDATION.—All aspects of a disciplinary hearing, including prehearing motions, shall be recorded by audio tape, video tape, or transcription.

''(14) SEQUESTRATION OF WITNESSES.—Either side in a disciplinary hearing may move for and be entitled to sequestration of witnesses.

''(15) TESTIMONY UNDER OATH.—The hearing officer or board shall administer an oath or affirmation to each witness, who shall testify subject to the applicable laws of perjury.

''(16) VERDICT ON EACH CHARGE.—At the conclusion of all the evidence, and after oral argument from both sides, the hearing officer or board shall deliberate and render a verdict on each charge.

''(17) BURDEN OF PERSUASION.—The prosecutor's burden of persuasion shall be by clear and convincing evidence as to each charge involving false representation, fraud, dishonesty, deceit, or criminal behavior and by a preponderance of the evidence as to all other charges.

''(18) FINDING OF NOT GUILTY.—If the law enforcement officer is found not guilty of the disciplinary violations, the matter is concluded and no disciplinary action may be taken.

''(19) FINDING OF GUILTY.—If the law enforcement officer is found guilty, the hearing officer or board shall make a written recommendation of a penalty. The sentencing authority may not impose greater than the penalty recommended by the hearing officer or board.

''(20) APPEAL.—A law enforcement officer may appeal from a final decision of a law enforcement agency to a court to the extent available in any other administrative proceeding, in accordance with the applicable State law.

''(g) WAIVER OF RIGHTS.—A law enforcement officer may waive any of the rights guaranteed by this section subsequent to the time that the officer has been notified that the officer is under investigation. Such a waiver shall be in writing and signed by the officer.

''(h) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—

''(1) IN GENERAL.—This section does not preclude a State from providing for summary punishment or emergency suspension.

''(2) HEALTH BENEFITS.—An emergency suspension shall not affect or infringe on the health benefits of a law enforcement officer or the officer's dependents.

''(i) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the officer's rights under this section.

''(j) OTHER REMEDIES NOT IMPAIRED.—Nothing in this section shall be construed to impair any other legal right or remedy that a law enforcement officer may have as a result of a constitution, statute, ordinance, regulation, collective bargaining agreement or other sources of rights.

''(k) DECLARATORY OR INJUNCTIVE RELIEF.—A law enforcement officer who is being denied any right afforded by this section may petition a State court for declaratory or injunctive relief to prohibit the law enforcement agency from violating such right.

''(l) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into

the file of any law enforcement officer, or possess or maintain control over any adverse material in any form within the law enforcement agency, unless the officer has had an opportunity to review and comment in writing on the adverse material.

''(m) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, sources of income, debts, personal or domestic expenditures (including those of any member of the officer's household), unless—

''(1) the information is necessary to the investigation of a violation of any Federal, State or local law, rule, or regulation with respect to the performance of official duties; and

''(2) such disclosure is required by Federal, State, or local law.

''(n) STATES' RIGHTS.—This section does not preempt State laws in effect on the date of enactment of this Act that confer rights that equal or exceed the rights and coverage afforded by this section. This section shall not be a bar to the enactment of a police officer's bill of rights, or similar legislation, by any State. A State law which confers fewer rights or provides less protection than this section shall be preempted by this section.

''(o) MUTUALLY AGREED UPON COLLECTIVE BARGAINING AGREEMENTS.—This section does not preempt existing mutually agreed upon collective bargaining agreements in effect on the date of enactment of this Act that are substantially similar to the rights and coverage afforded under this section.''.

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. preceding 3701) is amended by inserting after the item relating to section 818 the following new item:

''Sec. 819. Rights of law enforcement officers.''.●

● Mr. BIDEN. Mr. President; today I and Senator MCCONNELL are introducing the Law Enforcement Officers' Bill of Rights Act of 1995, a bill aimed at protecting the rights of law enforcement officers on the front line of this Nation's fight against violent crime and drug trafficking.

Police work is an incredibly difficult job, demanding split-second decisions that have life-or-death consequences. My colleagues may be surprised to find that despite the critical role that front-line law enforcement officers play to enforce the Constitution's rights and guarantees, and the related need to guarantee the highest standards of police conduct, internal disciplinary procedures in law enforcement agencies continue to vary widely across the nation.

The often ad hoc procedures that many departments use to guide internal investigations frequently allows police executives to take arbitrary and unfair actions against innocent police officers, while allowing culpable officers to avoid any punishment at all.

The law enforcement officers' bill of rights is designed to replace the ad hoc nature of many internal police investigations by encouraging States to provide minimum procedural standards to guide such investigations. The standards and protections offered by this bill are modeled on the Standards for Law Enforcement Agencies developed by the National Commission on Accreditation for Law Enforcement.

As the preface to the Commission's standards on internal affairs notes:

'The internal affairs function is important for the maintenance of professional conduct in a law enforcement agency. The integrity of the agency depends on the personal integrity and discipline of each employee. To a large degree, the public image of the agency is determined by the quality of the internal affairs function in responding to allegations of misconduct by the agency or its employees.

The specific standards and rights guaranteed by the law enforcement officers bill of rights introduced today include:

The right to engage or not engage in political activities independent of an officer's official capacity;

The right to be informed by a written statement of the charges brought against an officer;

The right to be free from undue coercion or harassment during an investigation; and

The right to counsel during an investigation.

The provisions of this bill will take effect at the end of the second full legislative term of each State. After such time, a law enforcement officer whose rights have been abridged may sue in State court for pecuniary and other damages, including full reinstatement.

Although the bill provides certain procedural rights, it gives States considerable discretion in implementing these safeguards, including the flexibility to provide for summary punishment and emergency suspensions of law enforcement officers.

It is also important to note what the bill does not do. The bill explicitly provides that the standards and protections governing internal investigations shall not apply to investigations of criminal misconduct by law enforcement officers. As a result, criminal investigations of law enforcement officers would not be affected by this bill.

Moreover, the protections in this bill do not apply to minor violations of departmental rules or regulations, not to actions taken on the basis of an officers' employment-related performance.

I would also like to acknowledge the hard work of several of the Nation's leading law enforcement organizations on this important bill. the real leaders behind this effort—and they have been the leaders since the police officers' bill of rights won passage in the Senate in 1991—are the Fraternal Order of Police, the National Association of Police Organizations, and the International Brotherhood of Police Officers. No one should be confused about where the force behind the law enforcement officers bill of rights lies—it lies with these organizations.

Finally, let me say to the entire law enforcement community—you enjoy one of the most amicable and productive relationships between the rank and file and management. Many have observed that the reason for these relations is the fact that today's chief was yesterday's patrol officer—just as today's patrol officer will be tomorrow's sheriff. That is why I look forward to working with all members of the law enforcement community to pass legislation protecting the rights of all law enforcement officers.

Mr. President, I have heard many Members of the Senate reflect on the commitment of those brave individuals who risk their lives as front-line law enforcement officers. Mr. President, the bill we introduce today gives every Member of the Senate the chance to provide at least some of the protections these police heroes deserve.●

By Mr. D'AMATO:

S. 337. A bill to enhance competition in the financial services sector, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE DEPOSITORY INSTITUTION AFFILIATION ACT OF 1995

● Mr. D'AMATO. Mr. President, I today introduce the Depository Institution Affiliation Act of 1995 to modernize the antiquated laws governing the financial services industry. I am pleased that Representative RICHARD BAKER, chairman of the House Banking Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises, will today introduce similar legislation. This comprehensive legislation seeks:

To promote competition among bank and nonbank providers of financial services;

To encourage innovation in the design and delivery of financial services and products to individuals, large and small businesses, nonprofit institutions, and municipalities;

To ensure the adequate regulation of financial intermediaries in order to protect depositors and investors;

To preserve the safety and soundness of the banking system and the overall financial system; and

To protect the Nation's taxpayers by requiring that nonbanking activities are conducted in separately capitalized and functionally regulated affiliates.

Mr. President, now is the time to ready the Nation's financial services industry for the 21st century. Congress has allowed regulation of the financial services industry, a goliath with 5 million employees and $16 trillion in assets, to fall far behind market forces. Since the late 1970's, market forces have fueled massive changes in the financial services industry. But the United States still relies on a regulatory system, born in the wake of the Great Depression, which stifles competition among providers of financial services. Without comprehensive reform, the Nation risks losing its leadership in the global market for financial services to Europe and Japan.

Mr. President, this bill is virtually identical to legislation that I have previously sponsored or cosponsored. I first introduced this bill in 1987 as S. 1905, and I reintroduced it in 1989 as S. 530. The actual text of the 1995 bill, and

its significant principles and provisions, are identical to the earlier versions. The 1995 version, however, contains technical and conforming changes to reflect the enactment of banking laws since its original introduction, such as the Financial Institutions Reform and Recovery and Enforcement Act of 1989, Public Law 101–73, the Federal Deposit Insurance Corporation Improvement Act of 1991, Public Law 102–242, and the interstate banking and community development bills of the last Congress.

Mr. President, I remain committed to comprehensive, fair, and innovative financial services reform. Congress must assert its authority and meet its responsibility to increase the availability of innovative financial products and services for consumers, businesses and Government at the lowest possible cost.

Mr. President, let me summarize the key provisions of the Depository Institution Affiliation Act [DIAA]. I will submit a more detailed section-by-section explanation of the bill at the end of my remarks.

In general, the DIAA retains and reinforces the basic principles reflected in the present framework for regulation of federally insured banks and thrifts, while permitting banks and nonbanks to affiliate in a holding company framework. The DIAA thus preserves all the safety-and-soundness and conflict-of-interest protections of the present system, while providing legal flexibility for a company to meet the financial needs of consumers, businesses and others by removing limitations on affiliations.

Mr. President, the DIAA would establish a new charter alternative for all companies interested in entering or diversifying in the financial services field—a financial services holding company [FSHC]. The bill would permit the merging of banking and commerce under carefully regulated circumstances by allowing a FSHC to own both a depository institution and companies engaged in both financial and nonfinancial activities.

Mr. President, by authorizing an alternative regulatory framework, the legislation would essentially exempt a FSHC's subsidiaries and affiliates from those sections of the Glass-Steagall and Bank Holding Company Acts that restrict mixing commercial banking with other financial—securities, investment banking, and so forth—and nonfinancial activities—retailing, technology, manufacturing. A FSHC would be able to diversify into any activity through affiliates of the holding company with such affiliates subject to enhanced regulation.

Mr. President, the regulation of the bank and nonbank affiliates of financial services holding companies would be along functional lines. The insured-bank affiliate would be regulated by Federal and State bank regulators, the securities affiliate by the Securities and Exchange Commission, and so on. Thus, for each affiliate, existing regulatory expertise will be applied to protect consumers, investors and taxpayers. Functional regulation will also assure that competition in discrete products and services is fair by eliminating current loopholes and regulatory gaps.

Mr. President, I want to underscore that the DIAA would not require existing firms to alter their regulatory structure. By permitting financial services providers to become FSHC's, such providers will have the options to phase gradually into, or expand within, the financial services industry.

Mr. President, our country still relies on a system of financial regulation that was established in the aftermath of the economic collapse of the 1930's and the Great Depression. By restricting competition among the various sectors of the financial services industry, the Glass-Steagall Act of 1933, the Federal securities law of that era, and the Bank Holding Company Act of 1956 sought to enhance the safety of financial instruments and intermediaries.

Mr. President, the past 20 years have seen a growing competition among providers of financial services. Banks seek more freedom to sell securities, mutual funds and insurance. Nonbank lenders, such as brokerage and insurance firms, offer commercial loans and other financing arrangements to business. And, finance companies and their commercial owners now play an increased role in the Nation's financial system. Many financial intermediaries provide functionally equivalent products and services.

Mr. President, the United States must adopt a regulatory regime that recognizes market realities and assesses and controls risk. Our present patchwork of financial laws protects particular industries, restrains competition, prevents diversification that would limit risks, restricts potential sources of capital, and undermines the efficient delivery of services and the competitive position of our financial institutions in world markets.

Mr. President, the Banking Committee and other committees of Congress have already held exhaustive hearings on the issues raised by the DIAA and reviewed bookshelves full of studies and blueprints for financial reform. Rather than enact comprehensive reform, Congress has thus far ceded the playing field to piecemeal deregulation by bank regulators and the courts. We must now end this debate and enact a legal framework that prepares our financial institutions for the new century and the challenges of a rapidly changing global economy.

Mr. President, the DIAA represents a good starting point and a sound approach to modernizing our financial structure. I recognize that this bill can be improved from the 1987 version, and I am specifically requesting constructive and helpful comments to improve and to refine the major principles underlying the bill.

Mr. President, congressional studies, Federal regulators, and industry leaders have supported comprehensive reform of the Nation's financial system. The Treasury Department's study, ''Modernizing the Financial System: Recommendations for Safer, More Competitive Banks'' (1991), essentially endorsed the legislation I am introducing today. In the recently enacted Riegle-Neal Interstate Banking and Efficiency Act of 1994 Congress directed Treasury to conduct another study of the Nation's financial services system. In a letter sent to Secretary Rubin today, I have strongly urged the Treasury Department to endorse and to reaffirm the basic conclusions of its 1991 study and to make further recommendations to promote competitiveness and efficiency, and to protect the taxpayer.

Mr. President, given the broad support for comprehensive reform, why has Congress not overhauled the antiquated laws governing financial services? Why has Congress, by default, permitted the bank regulatory agencies and the courts to rewrite, in an ad hoc fashion, these laws?

Mr. President, the answer is clear. Congress, Federal regulators, and the affected industries have lacked the vision to support the comprehensive reform reflected in this bill. We have debated bank deregulation and expanded bank powers. This polarizing debate has pitted the banks against securities firms, big banks against small banks, and banks against insurance agents and real estate brokers.

Mr. President, history must not repeat itself. Today, as the Fed, the FDIC and the Comptroller of the Currency consider modifying their rules to permit banks, nonbank affiliates of holding companies and operating subsidiaries of national banks to engage in a de novo or additional securities and insurance activities, I have a sense of deja vu. In 1987, the Competitive Equality Banking Act was passed to preserve Congress' ability to conduct a comprehensive review of banking and financial laws, and to make decisions on the need for financial restructuring legislation. Congress imposed a statutory moratorium on the authority of bank regulators to approve certain securities, insurance and real estate activities, 100–86. This moratorium ended on March 1, 1988.

Mr. President, the Banking Committee closely monitors activities and rulemaking of Federal bank regulators. With all the talk around Washington of regulatory moratoriums, I strongly urge bank regulators to support our efforts to rewrite the laws they administer rather than to stretch current laws beyond their statutory terms or the intent of Congress.

Mr. President, our outdated regulatory regime has hurt the global competitiveness of U.S. financial institutions. Over the past 20 years, in part because financial markets in Japan and Europe are less regulated than in the

United States, the number of American banks among the top 25 in the world has dropped from eight to none. In an era of increased globalization and free trade, as illustrated by NAFTA and GATT, we must not shackle U.S. financial institutions with a statutory framework that responds to the policy concerns of the 1930's.

Mr. President, the 104th Congress must address and resolve the important questions relating to the health and future of the banking industry in the broader context of a financial system that is increasingly composed of nonbank financial service providers. We must focus on the needs of our economy for credit and growth in the future and the next century. We must focus on financial stability, safety and soundness, fair competition, and functional regulation of all financial service providers—whether they are banks, investment banks, insurance companies, finance companies or even telecommunications or computer companies.

Mr. President, we must live up to the challenge. In recent years, Congress has responded quickly and effectively to correct deficiencies or excesses in the financial system. In the face of problems created by stock market breaks, depleted deposit insurance funds, or credit crunches, we have addressed serious financial crises. In the process, Congress has prudently learned that statutory provisions adopted in the 1930's can aggravate and actually create problems for depository institution and other financial providers in the 1980's and 1990's—for example, interest rate controls, restrictions on interstate banking, portfolio concentrations, and statutory impediments to diversification. Congress has eliminated or modified many of these provisions of law in the past decade for banks and thrifts. The homogenization of financial service and globalization of markets has also necessitated the close coordination by discrete regulators, nationally and internationally, through informal mechanisms, such as the Treasury Department's Working Group and the so-called Basle Committee. In recent years, in FIRREA and FIDICA, Congress has also employed market-oriented substitutes for direct government regulation, such as industry developed codes of conduct, capital strength, internal controls, management information systems and management experience.

Mr. President, Congress must modernize the restrictions on affiliations found in the Glass-Steagall and Bank Holding Company Acts. I introduce this bill today, and make these extensive remarks, to underscore the critical national importance of modernizing our financial system. Last year, Congress was finally able to eliminate barriers to interstate banking, to facilitate the securitization of small business loans, and to prune outdated and burdensome regulatory requirements. Those bills were the result of a successful collaboration among the administration, Federal and State regulators, and providers and consumers of financial services. I seek to sustain this process and pass comprehensive financial services reform during this Congress.

Mr. President, history demonstrates that financial services reform that is not comprehensive will not be enacted. I have previously opposed piecemeal reform because such reform is not procompetitive, is inconsistent with the objective of ''competitive equality'' articulated by Congress in 1987 and the Treasury's 1991 study, and will not advance the long-term interests of the banking industry or the United States.

Mr. President, the DIAA will make the financial system as a whole safer and more stable. Rather than debate the important but narrow issue of the future of the banking franchise and the role of banks in the economy and attempt to gerrymander markets through piecemeal legislation to protect any single component, Congress must enact comprehensive legislation. Only comprehensive legislation will produce beneficial changes for all financial intermediaries by:

Permitting financial intermediaries—commercial banks, investment banks, thrifts, et cetera—to attract capital by eliminating existing restrictions on ownership by and affiliations among depository and nondepository firms;

Facilitating diversification and assuring fair competition by creating a new category of financial service holding companies authorized to engage in any financial activity through separately regulated subsidiaries;

Insulating insured subsidiaries from the more risky business activities of other affiliates as well as the parent holding company;

Enhancing substantially the quality and effectiveness of regulation through functional regulation;

Improving coordination and supervision of the overall financial system by permitting more effective analysis and monitoring of aggregate stability and vulnerability to severe disruptions and breakdown; and

Removing unnecessary barriers to competition between providers of financial service in the United States in order to maintain the preeminence of the U.S. capital markets and U.S. financial intermediaries and to respond to growing competition from foreign companies.

Mr. President, this legislation, as introduced, is not intended to force major changes in the insurance industry. Nevertheless, it will affect issues important to the insurance agents, insurance companies, and financial institutions engaged in insurance activities. The exact impact of the legislation on the relationship between banking and insurance will continue to be examined—especially the issues raised by traditional State regulation of the business of insurance.

Immediately following the bill's introduction, the Banking Committee will begin to examine issues relating to bank involvement in insurance activities. In the end, I expect the bill to balance appropriately fair competition, functional regulation and respect for the traditional leadership of the States in insurance regulation. As the committee proceeds to hearings and further consideration of the bill, I intend to make changes and adjustments in order to ensure fairness, safety and soundness, consumer protection, and effective and efficient regulation, particularly as it relates to insurance and other financial products.

Mr. President, I introduce the Depository Institution Affiliation Act as a prelude to a vigorous debate about the future of our financial system. I strongly believe that this Congress can achieve the passage of a comprehensive financial services reform bill. By working together, the Congress and the administration can overcome the complaints of vested interests and reform our antiquated financial services laws. We should not miss this opportunity for constructive bipartisanship.

Mr. President, I ask unanimous consent that more detailed section-by-section summary of the bill and a copy of my letter to Secretary Rubin be reprinted in the RECORD.

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

DEPOSITORY INSTITUTION AFFILIATION ACT—SECTION-BY-SECTION ANALYSIS

Section 1: Short Title and table of contents.

Section 1 provides that this Act be cited as the ''Depository Institution Affiliation Act''.

Section 2: Findings and Purpose.

The purpose of this Act is to promote the safety and soundness of the nation's financial system, to increase the availability of financial products and services to consumers, businesses, charitable institutions and government in an efficient and cost effective manner. In addition, this Act aims to promote a legal structure governing providers of financial services that permits open and fair competition and affords all financial services companies equal opportunity to serve the full range of credit and financial needs in the marketplace. This Act also aims to ensure that domestic financial institutions and companies are able to compete effectively in international financial markets. Finally, this Act aims to regulate financial activities and companies along functional lines without regard to ownership, control, or affiliation.

TITLE I—CREATION AND CONTROL OF FINANCIAL SERVICES HOLDING COMPANIES

Section 101. This section creates a new type of financial company, a Financial Services Holding Company, and sets out the terms and conditions under which such a company can be established and must be operated.

Subsection (a) Definitions. This subsection defines terms used in this section.

Paragraph (a)(1) Financial Services Holding Company (FSHC)—defines a FSHC to be any company that files a notice with the National Financial Services Committee (see Title II of this Act) that it intends to comply with the provisions of this section, and controls an insured depository institution, or,

either (i) has, within the preceding 12 months filed a notice under subsection (b) of this section to establish or acquire control of a federally insured depository institution or a company owning such a federally insured depository institution, or (ii) controls a company which, within the preceding 12 months, has filed an application for federal deposit insurance, provided that such notice or application has not been disapproved by the appropriate Federal banking agency or withdrawn. Any bank holding company which elects to become a FSHC will lose its status as a bank holding company immediately upon filing the notice of its election to become a FSHC. Similarly, a savings and loan holding company that elects to become a FSHC will lose that status upon filing the notice of its election to become a FSHC.

Paragraph (a)(2) Bank Holding Company—gives the term ''bank holding company'' the meaning given to it in section 2(a) of the Bank Holding Company Act of 1956, as amended.

Paragraph (a)(3) Savings and Loan Holding Company—gives the term ''savings and loan holding company'' the meaning given to it in section 10(a) of the Home Owners' Loan Act.

Paragraph (a)(4) Affiliate—defines for this section, except paragraph (5) of subsection (f), the term ''affiliate'' of a company as any company which controls, is controlled by, or is under common control with such a company.

Paragraph (a)(5) Appropriate Federal Banking Agency (AFBA)—gives the term ''appropriate Federal banking agency'' the meaning given to it in section 3 of the Federal Deposit Insurance Act.

Paragraph (a)(6) Depository Institution and Insured Depository Institution—gives the term ''depository institution'' and ''insured depository institution'' the meaning given to them in section 3 of the Federal Deposit Insurance Act.

Paragraph (a)(7) State—gives the term ''State'' the meaning given to it in section 3 of the Federal Deposit Insurance Act.

Paragraph (a)(8) Company—defines the term ''company'' to mean any corporation, partnership, business trust, association or similar organization. However, corporations that are majority owned by the United States or any State are excluded from the definition of company.

Paragraph (a)(9) Control—defines control by one company over another. For purposes of this section, the term ''control'' means the power, directly or indirectly, to direct the management or policies of a company, or to vote 25% or more of any class of voting securities of a company.

There are three exceptions from the definition of control: These pertain to ownership of voting securities acquired or held:

1. as agent, trustee or in some other fiduciary capacity;

2. as underwriter for such a period of time as will permit the sale of these securities on a reasonable basis; or in connection with or incidental to market making, dealing, trading, brokerage or other securities-related activities, provided that such shares are not acquired with a view toward acquiring, exercising or transferring control of the management or policies of the company;

3. for the purpose of securing or collection of a prior debt until two years after the date of the acquisition; and

In addition, no company formed for the sole purpose of proxy solicitation shall be deemed to be in control of another company by virtue of its acquisition of the voting rights of the other company's securities.

Paragraph (a)(10) Adequately Capitalized—the term 'adequately capitalized' with respect to an insured depository institution has the meaning given to it in section 38(b)(1) of the Federal Deposit Insurance Act.

Paragraph (a)(11) Well Capitalized—the term 'well capitalized' with respect to an insured depository institution has the meaning given to it in section 38(b)(1) of the Federal Deposit Insurance Act.

Paragraph (a)(12) Minimum Required Capital—defines the term 'minimum required capital' with respect to an insured depository institution as the amount of capital that is required to be adequately capitalized.

Paragraph (a)(13) Domestic Branch—gives the term 'domestic branch' the same meaning as in section 3(o) of the Federal Deposit Insurance Act.

Subsection (b): Changes in Control of Insured Depository Institutions. This subsection provides that any FSHC wishing to acquire control of an insured depository institution or company owning such insured depository institution must comply with the requirements of the Change in Bank Control Act. Failure to comply with these requirements will subject the relevant FSHC to the penalties and procedures provided in subsections (i) through (m) of this section, in addition to otherwise applicable penalties.

Subsection (c): Affiliate Transactions. This subsection empowers each AFBA to impose restrictions on affiliate transactions to prohibit unsafe or unsound practices. These regulations would be in addition to the restrictions on interaffiliate transactions provided for under sections 23A or 23B of the Federal Reserve Act. This subsection gives each AFBA some flexibility to promulgate and adapt rules and regulations in response to changing market conditions so that the AFBA has at all times the capability to prevent insured depository institutions under its supervision that are controlled by FSHCs from engaging in transactions that would compromise the safety and soundness of such insured depository institutions or that would jeopardize the deposit insurance funds.

Moreover, other provisions of this Act assure that the AFBA will have the capability to enforce these regulations vigorously (subsection (i) of this section) and that any violations of these regulations will be more severely punished than violations of regulations applicable to insured depository institutions that are not controlled by FSHCs (subsections (i), (j), (k) and (l) of this section).

Paragraph (c)(2) Regulatory Activity—provides that any rules adopted under subparagraph (c)(1)(A) shall be issued in accordance with normal rulemaking procedures and shall afford interested parties the opportunity to comment in writing and orally on any proposed rule.

Paragraph (c)(3) Application to Prior Approved Transactions—grandfathers interaffiliate transactions specifically approved by a AFBA prior to the enactment of this Act.

Paragraph (c)(4) Federal Reserve Act Treatment—makes it clear that sections 23A and 23B of the Federal Reserve Act will apply to every insured depository institution controlled by a financial services holding company.

Paragraphs (c) (5) and (6) Limitations and Exception—prohibits any insured depository institution controlled by a FSHC from extending credit to or purchasing the assets of a securities affiliate and providing other types of financial support to that FSHC's securities affiliate except for daylight overdrafts that relate to U.S. Government securities transactions if the daylight overdrafts are fully collateralized by U.S. Government securities as to principal and interest.

Paragraph (c)(7) Limitation on Certain Marketability Activities—prohibits insured depository institutions controlled by a FSHC from providing any type of guarantee for the purpose of enhancing the marketability of a securities issue underwritten or distributed by a securities affiliate of that FSHC.

Paragraph (c)(8) Activities During Securities Distribution—prohibits insured depository institutions controlled by a FSHC from extending credit secured by or for the purposes of purchasing any security during an underwriting period or for 30 days thereafter where a securities affiliate or such institution participates as an underwriter or member of a selling group.

Paragraph (c)(9) Extensions of Credit for Payment of Dividends—prohibits insured depository institutions controlled by a FSHC from extending credit to an issuer of securities underwritten by a securities affiliate for the purpose of paying the principal of those securities or interest for dividends on those securities.

Paragraph (c)(10) Securities Affiliate Defined—defines 'securities affiliate' for the purposes of paragraphs (c)(5) through (c)(9) as a company that engages in underwriting, distributing or dealing in securities, except insurance products.

Subsection (d): Capitalization. This subsection regulates the capitalization of insured depository institutions that are controlled by a FSHC.

Paragraph (d)(1) In General—requires that insured depository institutions controlled by a FSHC be well capitalized.

Paragraph (d)(2) Actions by Federal Regulators—Provides that if the AFBA finds that an insured depository institution subsidiary of a FSHC is not well capitalized, the FSHC shall have thirty days to reach an agreement without the AFBA concerning how and according to what schedule the insured depository institution will bring its minimum capital back into conformance with requirements. During that time the insured depository institution shall operate under the close supervision of the AFBA.

In the event that the FSHC does not reach an agreement within thirty days with the AFBA on how and according to what schedule the capital of the insured depository institution will be replenished, the FSHC will be required to divest the insured depository institution in an orderly manner within a period of six months, or such additional period of time as the AFBA may determine is reasonably required in order to effect such divestiture.

Paragraph (d)(3) Capital of Holding Company—Prohibits a AFBA from imposing any capital requirement on a FSHC.

Subsection (e): Interstate Acquisitions and Activities of Insured Depository Institutions. This subsection subjects interstate acquisitions of an insured depository institution by a FSHC to the same restrictions as those applicable to bank holding companies under section 3(d) of the Bank Holding Company Act of 1956, as amended, and it subjects interstate acquisitions of savings associations by a FSHC to the same restrictions as those applicable to savings and loan holding companies. It also treats a FSHC as a BHC for purposes of Section 18(r) of the Federal Deposit Insurance Act regarding affiliate depository institution agency activities.

Subsection (f): Differential Treatment Prohibition; Laws Inconsistent with this Act. This subsection does two things. First, it prohibits adversely differential treatment of FSHCs and their affiliates, including their insured depository institution affiliates, except as this Act specifically provides. Second, this subsection ensures that state and federal initiatives do not undermine achievement of the purposes of this Act. Whether couched as affiliation, licensing or agency restrictions or as constraints on access to

state courts, such laws effectively perpetuate market barriers and deny consumers the opportunity to choose between different financial products and services.

Paragraph (f)(1) this paragraph specifically prohibits states from enacting laws that discriminate against FSHCs or against their affiliates, including their insured depository institution affiliates. This paragraph also prohibits, notwithstanding any other federal law, federal and state regulatory agencies from discriminating by rule, regulation, order or any other means against FSHCs or against their affiliates, including their insured depository institution affiliates, except as this Act specifically provides. This is intended to assure that the primary purpose of this Act—the enhancement of competition in the depository institution sector—will be fulfilled.

Paragraph (f)(2) Application of State Laws—this subsection recognizes that certain State affiliation and licensing laws restrain legitimate competition in interstate commerce, deny consumers freedom of choice in selecting an insured depository institution and threaten the long-term safety and soundness of insured depository institutions by limiting their access to capital.

Accordingly, with the exception of certain laws related to insurance and real estate brokerage which are treated in Subsection (g), this paragraph preempts any provision of federal or state law, rule, regulation or order that is expressly or impliedly inconsistent with the provisions of this section. The preempted statutes include state banking, savings and loan, securities, finance company, retail or other laws which restrict the affiliation of insured depository institutions or their owners, agents, principals, brokers, directors, officers, employees or other representatives with other firms. Similarly, laws prohibiting cross marketing of products and services are preempted insofar as such cross marketing activities are conducted by FSHCs, their affiliates, or by any agent, principal, broker, director, officer, employee or other representative. By contrast, nondiscriminatory state approval, examination, supervisory, regulatory, reporting, licensing, and similar requirements are not affected.

Paragraph (f)(3) Laws Affecting Court Actions—removes a common uncertainty under state licensing and qualification to do business statutes, which leaves an out-of-state insured depository institution's access to another state's courts unresolved. Under this provision, so long as such an insured depository institution limits its activities to those which do not constitute the establishment or operation of a ''domestic branch'' of an insured depository institution in that other state, it can qualify to maintain or defend in that state's court any action which could be maintained or defended by a company which is not an insured depository institution and is not located in that state, subject to the same filing, fee and other conditions as may be imposed on such a company. This paragraph is not intended to grant states any power that they do not currently have to regulate the activities of out-of-state insured depository institutions.

Paragraph (f)(4) Other Restrictions—makes clear that a state, except subject to the provisions of this Act, may not impede or prevent any insured depository institution affiliated with a FSHC or any FSHC or affiliate thereof from marketing products and services in that state by utilizing and compensating its agents, solicitors, brokers, employees and other persons located in that state and representing such a insured depository institution, company, or affiliate. However, to the extent such persons are performing loan origination, deposit solicitation or other activities in which an insured depository institution may engage, those activities cannot constitute the establishment or operation of a ''domestic branch'' at any location other than the main or branch offices of the depository institution.

Paragraph (f)(5) Definitions—contains a special definition of ''affiliate'' and ''control'' for purposes of paragraph (2) through (4) this subsection only. Control is deemed to occur where a person or entity owns or has the power to vote 10% of the voting securities of another entity or where a person or entity directly or indirectly determines the management or policies of another entity or person. Unlike the definition of affiliate set forth in paragraph (4) of subsection (a), this definition encompasses not only corporate affiliations but affiliations between corporations and individuals.

Subsection (g): Securities, Insurance and Real Estate Activities of Insured Depository Institutions. In order to facilitate functional regulation of the activities of FSHCs this section prohibits insured depository institutions controlled by FSHCs from conducting certain securities, insurance and real estate activities currently permissible for some insured depository institutions.

Subparagraph (g)(1)(A) Securities Activities—provides that no insured depository institution controlled by a FSHC shall directly engage in dealing in or underwriting securities, or purchasing or selling securities as agent, except to the extent such activities are performed with regard to obligations of the United States or are the type of activities that could be performed by a national bank's trust department.

Subparagraph (g)(1)(B) Insurance Activities—provides that no insured depository institution controlled by a FSHC shall directly engage in insurance underwriting.

Subparagraph (g)(1)(C) Real Estate Activities—provides that no insured depository institution controlled by a FSHC shall directly engage in real estate investment or development except insofar as these activities are incidental to the insured depository institution's investment in or operation of its own premises, result from foreclosure on collateral securing a loan, or are the type of activities that could be performed by a national bank's trust department.

Paragraph (g)(2) Construction—clarifies that nothing in this subsection shall be construed to prohibit or impede a FSHC or any of its affiliates (other than an insured depository institution) from engaging in any of the activities set forth in paragraph (1) or to prohibit an employee of an insured depository institution that is an affiliate of a FSHC from offering or marketing products or services of an affiliate of such an insured depository institution as set forth in paragraph (1).

Paragraph (g)(3) De Novo Securities and Real Estate Activities—except for activities permitted under Section 4(c)(8) of the Bank Holding Company Act no FSHC can engage in insurance or real estate activities de novo. Rather, they would have to purchase either an insurance agency or real estate brokerage business which had been in business for at least two years prior to passage of the Act.

Paragraph (g)(4) Existing Contracts—provides that nothing in this subsection will require the breach of a contract entered into prior to enactment of this Act.

Subsection (h): Tying and Insider Lender Provisions. This section subjects FSHCs to the tying provisions of section 106 of the Bank Holding Company Act Amendments of 1970 and to the insider lending prohibitions of section 22(h) of the Federal Reserve Act. These sections prohibit tying between products and services offered by insured depository institutions and products and services offered by the FSHC itself or by any of its other affiliates. Note, however, that these tying provisions do not apply to products and services that do not involve an insured depository institution. The insider lending provisions severely limit loans by an insured depository institution to officers and directors of the insured depository institution. For purposes of both provisions, the AFBA will exercise the rulemaking authority vested in the Federal Reserve with regard to these limitations.

Subsection (i): Examination and Enforcement. This subsection provides that the AFBA shall use its examination and supervision authority to enforce the provisions of this section, including any rules and regulations promulgated under subsection (c). In particular, it is intended that each AFBA should structure its examination process so as to uncover possible violations of the provisions of this section and that the agency should not hesitate to make full use of its cease-and-desist powers or to impose as warranted the special penalties discussed below, if it believes that an insured depository institution under its supervision that is controlled by a FSHC is in violation of any of the provisions of this section.

This subsection also grants the AFBA authority to examine any other affiliate of the FSHC as well as the FSHC itself in order to ensure compliance with the limitations of this section or other provisions of law made applicable by this section such as sections 23A and 23B of the Federal Reserve Act.

In addition, this subsection grants each AFBA the right to apply to the appropriate district court of the United States for a temporary or permanent injunction or a restraining order to enjoin any person or company from violation of the provisions of this section or any regulation prescribed under this section. The AFBA may seek such an injunction or restraining order whenever it considers that an insured depository institution under its supervision or any FSHC controlling such an insured depository institution is violating, has violated or is about to violate any provision of this section or any regulation prescribed under this section. In seeking such an injunction or restraining order the AFBA may also request such equitable relief as may be necessary to prevent the violation in question. This relief may include a requirement that the FSHC divest itself of control of the insured depository institution, if this is the only way in which the violation can be prevented.

This injunctive power will enable the AFBA to move speedily to stop practices that it believes endanger the safety and soundness of an insured depository institution under its supervision that is controlled by a FSHC. If necessary to protect the depositors and safeguard the deposit insurance funds, the AFBA may request that the injunction proceedings be held in camera, so as not to provoke a run on the insured depository institution.

Subsection (j): Divestiture. This subsection states that an AFBA may require a FSHC to divest itself of an insured depository institution, if the agency finds that the insured depository institution is engaging in a continuing course of action involving the FSHC or any of its affiliates that would endanger the safety and soundness of that insured depository institution. Although the FSHC would have the right to a hearing and to judicial review and have one year in which to divest the insured depository institution, it should be emphasized that the insured depository institution would operate under the close supervision of the AFBA from the date of the initial order until the date the divestiture is completed. This is intended to safeguard the insured depository institution in question,

its depositors and the deposit insurance funds.

Subsection (k): Criminal Penalties. This subsection provides for criminal penalties for knowing and willful violations of the provisions of this section, even if these violations do not result in an initial or final order requiring divestiture of the insured depository institution. For companies found to be in violation of the provisions of this section the maximum penalty shall be the greater of (a) $250,000 per day for each day that the violation continues or (b) one percent of the minimum required capital of the insured depository institution per day for each day that the violation continues, up to a maximum of 10% of the minimum capital of the insured depository institution—a fine that could amount to tens of millions of dollars for a large insured depository institution. Such a fine is designed to be large enough to deter even larger insured depository institutions from violating the provisions of this section.

For individuals found to be in violation of the provisions of this section the penalty shall be a fine and/or a prison term. The maximum fine shall be the greater of (a) $250,000 or (b) twice the individual's annual rate of total compensation at the time the violation occurred. The maximum prison sentence shall be one year. In addition, individuals violating the provisions of this section will also be subject to the penalties provided for in Section 1005 of Title 18 for false entries in any book, report or statement to the extent that the violation included such false entries.

A FSHC and its affiliates shall also be subject to the Criminal penalties provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990 to the same extent as a registered bank holding company, savings and loan holding company or any affiliate of such companies.

Subsection (1): Civil Enforcement, Cease-and-Desist Orders, Civil Money Penalties. This subsection provides for civil enforcement, cease-and-desist orders and civil money penalties consistent with subsections (b) and (s) and subsection (u) of Section 8 of the Federal Deposit Insurance Act for FSHCs that violates the provisions of this section in the same manner as they apply to an insured depository institution.

Subsection (m): Civil money Penalties. This subsection grants the AFBA the power to impose and collect civil money penalties after providing the company or person accused of such violation notice and the opportunity to object in writing to its finding.

Subsection (n): Judicial Review. This subsection provides for judicial review of decisions reached by an AFBA under the provisions of this section. This right to review includes a right of judicial review of statutes, rules, regulations, orders and other actions that would discriminate against FSHCs or affiliates controlled by such companies.

Section 102: Amendment to the Bank Holding Company Act of 1956. This section contains a conforming amendment to the definition of the term ''bank'' in the Bank Holding Company Act to ensure that a FSHC owning an insured depository institution will be regulated under this Act rather than the Bank Holding Company Act.

Section 103: Amendments to the Federal Reserve Act. This section clarifies the application of Section 23A of the Federal Reserve Act to certain loans and extensions of credit to persons who are not affiliated with a member bank. Section 23A contains a provision that was intended to prevent the use of ''straw man'' intermediaries to evade section 23A's limitations on loans and extensions of credit to affiliates. Contrary to its original purpose, the provision may also be literally read to restrict a bona fide loan or extension of credit to a third party who happens to use the proceeds to purchase goods or services from an affiliate of the insured depository institution; such a loan could occur, for example, if a customer happens to use a credit card issued by an insured depository institution to buy an item sold by the insured depository institution's affiliates. This section clarifies that such loans and extensions of credit are not covered by section 23A as long as (i) the insured depository institution approves them in accordance with substantially the same standards and procedures and on substantially the same terms that it applies to similar loans or extensions of credit that do not involve the payment of the proceeds to an affiliate, and (ii) the loans or extensions of credit are not made for the purpose of evading any requirement of section 23A.

Section 104: Amendments to the Banking Act of 1933.

Subsection (a) Section 20—amends section 20 of the Glass-Steagall Act so that it does not apply to member banks that are controlled by FSHCs.

Subsection (b) Section 32—amends section 32 of the Glass-Steagall Act so that it does not apply to officers, directors and employees of affiliates of a single financial services holding company.

Section 105: Amendment to the Federal Deposit Insurance Act. This section amends the Change in Bank Control Act to provide that an acquisition of a FSHC controlling an insured depository institution may only be accomplished after complying with that Act's procedures. It also modifies the definition of ''control'' to conform it to the definition in section 101(a)(9) of this Act.

Section 106: Amendment to the Securities Exchange Act of 1934. This section amends the Securities Exchange Act of 1934 to provide for the registration and regulation of Broker Dealers affiliated with a FSHC.

Section 107: Amendment to the Home Owners' Loan Act. This section amends section 11 of the Home Owners' Loan Act in order to apply Section 101(c)(1)(B) of this section to savings associations.

Section 108: Amendment to the Community Reinvestment Act. This section amends the Community Reinvestment Act to make it applicable to acquisitions of insured depository institutions by FSHCs.

Section 106: Amendment to the Securities Exchange Act of 1934. This section amends the Securities Exchange Act of 1934 to provide for the registration and regulation of Broker Dealers.

Section 107: Amendment to the Home Owners' Loan Act. This section amends section 11 of the Home Owners' Loan Act in order to apply Section 101(c)(1)(B) of this section to savings associations.

Section 108: Amendment to the Community Reinvestment Act. This section amends the Community Reinvestment Act to make it applicable to acquisitions of insured depository institutions by FSHCs.

TITLE II—SUPERVISORY IMPROVEMENTS

Section 201: National Financial Services Committee. This section establishes a standing committee, the National Financial Services Oversight Committee (Committee), in order to provide a forum in which federal and state regulators can reach a consensus regarding how the regulation of insured depository institutions should evolve in response to changing market conditions. In addition, the Committee also provides a mechanism through which various federal regulatory agencies could coordinate their responses to a financial crisis, if such a crisis were to occur. The Committee comprises all federal agencies responsible for regulating financial institutions or financial activities, and it is structured to allow state regulators to participate in its deliberations.

The Committee consists of the Chairman of the Secretary of the Treasury, who is also the Chairman of the Committee, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the FDIC, the Director of the Office of Thrift Supervision, the Comptroller of the Currency, the Secretary of Commerce, the Attorney General, the Chairman of the SEC, and the Chairman of the CFTC.

The Committee is directed to report to Congress within one year of enactment of this Act on proposed legislative or regulatory actions that will improve the examination process to permit better oversight of all insured depository institutions. It is also directed to establish uniform principles and standards for examinations.

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, February 2, 1995.

Hon. ROBERT RUBIN,
Secretary, Department of Treasury, Washington, DC.

DEAR MR. SECRETARY: The Treasury Department in conducting a study of the financial services system required by the Interstate Banking and Branching Efficiency Act of 1994 (P.L. 103–328). The Department must submit recommendations to Congress for ''changes in statutes, regulations, and policies to improve the operation of the financial service system'' by the end of 1995.

I introduced today the ''Depository Institution Affiliation Act of 1995'' (''DIAA'') and urge you to consider it carefully as the Treasury Department conducts its study. The bill and a summary of its major provisions are enclosed.

The DIAA would allow any company—financial or commercial—to become a financial services holding company and be affiliated with an insured depository institution. A company that opts into the alternative regulatory format could engage in an expanded range of activities with and through its depository institution and other affiliates. Non-depository financial and/or commercial activities would be conducted through separately capitalized subsidiaries and regulated along functional lines. This separation of the non-depository institution properly insulates the depository institution from self-dealing and other inappropriate practices and serves to protect the deposit insurance system.

The legislation is a rational legislative response to the need for comprehensive financial services reform. Moreover, the Treasury Department's 1991 study, *Modernizing the Financial System: Recommendations for Safer More Competitive Banks*, essentially endorsed the principles contained in the DIAA.

In formulating Treasury's proposal for financial services restructuring, I urge you to consider and support the DIAA and the creation of financial services holding companies.

Sincerely,

ALFONSE M. D'AMATO,
Chairman.●

By Mr. DASCHLE (for himself, Mr. ROCKEFELLER, Mr. AKAKA, Mr. KERREY, Mr. DORGAN, and Mr. CAMPBELL):

S. 338. A bill to amend title 38, United States Code, to extend the period of

eligibility for inpatient care for veterans exposed to toxic substances, radiation, or environmental hazards, to extend the period of eligibility for outpatient care for veterans exposed to such substances or hazards during service in the Persian Gulf, and to expand the eligibility of veterans exposed to toxic substances or radiation for outpatient care; to the Committee on Veterans' Affairs.

THE VETERANS' OUTPATIENT CARE ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing legislation that will provide much needed medical care to veterans exposed to agent orange or ionizing radiation, as well as to veterans exposed to toxic substances or environmental hazards during the Persian Gulf war. I am joined in this effort by Senators ROCKEFELLER, AKAKA, KERREY, DORGAN, and CAMPBELL.

Most Americans have heard about the mysterious illnesses afflicting thousands of gulf war veterans. Even though it has been almost 4 years since most of our troops returned home, we are still unable to pinpoint the cause or causes of these illnesses.

Are these illnesses service-connected? I believe so, though we will not be able to answer that question fully until further scientific research is done. Indeed, it is possible that scientists may never be able to discover the true cause(s) of these illnesses.

Does that mean gulf war veterans should wait for medical care until we know for sure that their ailments are service-connected? Certainly not. These men and women put their lives on the line for this Nation, and they deserve quality care from the Department of Veterans Affairs.

Likewise, we must not forget that other veterans continue to suffer from illnesses potentially caused by toxic exposures during their military service. Specifically, I am referring to veterans exposed to the defoliant agent orange during the Vietnam war and to veterans exposed to ionizing radiation either as a result of participation in the military's nuclear testing program or during the occupation of Hiroshima and Nagaski during World War II.

Title 38 of the United States Code currently authorizes the Department of Veterans Affairs to provide hospital and nursing home care to veterans suffering from agent orange, radiation or gulf war exposures. For veterans of the gulf war, outpatient services are also available.

However, this authority is scheduled to expire this year. Without prompt action by Congress, these veterans will become ineligible to receive care at VA facilities for all conditions potentially related to these exposures.

My bill will ensure that these veterans are eligible for VA medical care through December 31, 2003. Although some may argue for a shorter extension, I believe the period must be long enough to ensure that these veterans get the care they deserve.

Let me elaborate. In the 97th Congress, we granted VA the authority to provide care to veterans exposed to agent orange or ionizing radiation. Since that time, Congress has approved short extensions of this authority on four different occasions. For veterans, this has meant great uncertainty about whether they will receive much-needed health care. A longer extension will help alleviate this uncertainty.

Moreover, scientists cannot provide us with quick answers as to why gulf war veterans are sick. And in the meantime, these men and women will continue to suffer. They need to know that a grateful nation will help them through this difficult time.

I should stress that this authority to provide care only applies to medical conditions that are related or may be related to agent orange, ionizing radiation, or gulf war exposures. It does not extend to conditions for which VA doctors have affirmatively identified other causes.

My bill does go one step further than a simple extension of current law. It also ensures that veterans exposed to agent orange and ionizing radiation are eligible for the same range of medical services currently available to gulf war veterans. Specifically, the bill authorizes the VA to provide outpatient care for these veterans—care that could very well save money in the long run by avoiding the need for more costly inpatient care.

Veterans who are ill because of toxic exposures during military service are as deserving of VA medical care as their comrades injured by bullets or landmines. I hope that my colleagues will join me in preserving their access to such care.

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

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

S. 338

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

SECTION 1. EXTENSION OF PERIOD OF ELIGIBILITY FOR INPATIENT CARE.

(a) CARE FOR EXPOSURE TO TOXIC SUBSTANCES AND IONIZING RADIATION.—Section 1710(e)(3) of title 38, United States Code, is amended by striking out ''June 30, 1995,'' and inserting in lieu thereof ''December 31, 2003,''.

(b) CARE FOR EXPOSURE DURING PERSIAN GULF SERVICE.—Such section is further amended by striking out ''December 31, 1995'' and inserting in lieu thereof ''December 31, 2003''.

SEC. 2. EXTENSION AND EXPANSION OF ELIGIBILITY FOR OUTPATIENT CARE.

(a) EXTENSION OF ELIGIBILITY FOR EXPOSURE DURING PERSIAN GULF SERVICE.—Paragraph (1)(D) of section 1712(a) of title 38, United States Code, is amended by striking out ''December 31, 1995,'' and inserting in lieu thereof ''December 31, 2003,''.

(b) EXPANSION OF ELIGIBILITY TO COVER TOXIC SUBSTANCES AND IONIZING RADIATION.—Such section is further amended—

(1) in paragraph (1)—

(A) by striking out ''and'' at the end of subparagraph (C);

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new subparagraphs:

''(E) during the period before December 31, 2003, for any disability in the case of a veteran who served on active duty in the Republic of Vietnam during the Vietnam era and who the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used in connection with military purposes during such era, notwithstanding that there is insufficient medical evidence to conclude that the disability may be associated with such exposure; and

''(F) during the period before December 31, 2003, for any disability in the case of a veteran who the Secretary finds was exposed while serving on active duty to ionizing radiation from the detonation of a nuclear device in connection with such veteran's participation in the test of such a device or with the American occupation of Hiroshima and Nagasaki, Japan, during the period beginning on September 11, 1945, and ending on July 1, 1946, notwithstanding that there is insufficient medical evidence to conclude that the disability may be associated with such exposure.''; and

(2) in paragraph (7)—

(A) by striking out ''under paragraph (1)(D)'' and inserting in lieu thereof ''under subparagraph (D), (E), or (F) of paragraph (1) of this subsection''; and

(B) by striking out ''in that paragraph'' and inserting in lieu thereof ''in the applicable subparagraph''.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 339. A bill to ensure the provision of appropriate compensation for the real and mining claims taken by the United States as a result of the establishment of the White Sands Missile Range, New Mexico; to the Committee on Armed Services.

THE WHITE SANDS FAIR COMPENSATION ACT OF 1995

• Mr. DOMENICI. Mr. President, on behalf of Senator BINGAMAN and myself, I am offering legislation that will compensate a very special group of Americans: a group of patriots who heard the call to arms in 1941, answered that call, and entered into a good faith effort with our Government. Unfortunately, it was a good faith effort that turned sour. This bill, the White Sands Fair Compensation Act of 1995, is offered in an effort to right some wrong that began over 50 years ago.

On September 1, 1939, a chain of events began to unfold that would affect Americans from coast to coast. I am speaking, of course, of the outbreak of World War II. Americans made concessions to support the war effort and they willingly made extreme sacrifices—sacrifices of time, loved ones, and—for some—their homes and their way of life.

In 1942, President Roosevelt signed an executive order that would temporarily withdraw all public lands and acquire all surrounding private lands in an area of New Mexico that had great potential as a testing area for the

army. The land was abundant, sparsely populated, and in the middle of nowhere. For the sake of national security and for the benefit of the Nation, ranchers and miners in this area entered into a temporary agreement to leave their homes and their livelihood. The White Sands Missile Range [WSMR] had gained its first foothold in the State of New Mexico. The ranchers and miners had taken their first step out of their former lives.

At the end of World War II, the Government determined the Nation's security was still at risk and the use of the WSMR area was necessary. Nevertheless, the army relented to allow WSMR ranchers to return to their homes on a shared use basis. Until 1950, the ranchers and the military attempted to work together in sharing the WSMR area. Sharing simply did not work. In 1952, the Government began to formally withdraw all the public lands with the understanding that at some time in the future the lands were to revert back to the Department of the Interior for public use. During this time, the WSMR ranchers were still allowed the use of their private lands, but they could no longer use the surrounding Federal lands that had been integral components of their land holdings. For many, this was the difference between raising cattle and sheep as pets or as food. Furthermore, the military maintained evacuation contracts with the ranchers, directing the ranchers to vacate their private lands during weapons testing.

All these factors added up to financial disaster for the ranchers who, in 1942, believed they were contributing to the war effort. WSMR ranchers couldn't ranch, nor could they sell their land. The WSMR ranches had changed in 10 years from thriving companies producing food and fiber, to crippled businesses waiting to be unloaded on the first prospective buyer.

That prospective buyer came 20 years later. The Government offered to buy the lands from the WSMR ranchers. Those ranchers who agreed received a devalued price for their homes; those who disagreed had their lands condemned and received the same low price.

Mr. President, I would like to put this issue into some historical context. The Congress during the years of Jefferson and Hamilton, was embroiled in a debate surrounding the country's Federal lands and a troublesome national debt. The debt prompted leaders to consider clearing the Nation's debt through the sale of its Federal lands to bring in much needed revenue as well as to encourage the expansion of the western territories. After much deliberation and many successive Congresses, several measures were signed into law that would entice Americans to move west and homestead the land.

Between 1895 and 1920, many of the ranchers began to settle in what would become WSMR. Each rancher paid the Government for the land. These lands had water, grass, and good soil. The Federal Government retained the title to those lands they could not sell. Holding that land, however, did not generate revenue. Therefore, the Government believed it important to enter into a new agreement with the ranchers. This new agreement encouraged the settlers to invest money, time, and effort into the less fertile Federal lands in exchange for increasing the settler holdings. Another good faith agreement was entered into between the ranchers and the Government.

Through the years this agreement resulted into a valuable arrangement for both the ranchers and the Government. The ranchers use the expanded holdings as collateral, and the Internal Revenue Service taxes these holdings as net worth. The WSMR ranchers' land, both privately and publicly held, had value. The ranchers had invested substantially in both.

Senator BINGAMAN and I are introducing a bill today which will compensate these individuals for their investments. The Whites Sands Fair Compensation Act of 1995 establishes a Commission in the Department of Defense to provide compensation to the individuals who lost their ranches or mining claims to the Government. This Commission will evaluate the history surrounding this issue, evaluate claims submitted by owners who relinquished their property, and will terminate its work after completing action on all claims filed under this act. I ask that a copy of my bill be included in the RECORD at the conclusion of my remarks.

In closing, Mr. President, I would like to urge this Congress to work quickly on this measure. Many WSMR ranchers and miners have died, and many more are elderly. My colleagues in the House of Representatives, Congressman JOE SKEEN, Congressman STEVE SCHIFF, and Congressman BILL RICHARDSON will introduce a companion measure. It is my hope that this Congress will acknowledge what this special group of Americans contributed to winning a war fought so very long ago.●

By Mr. DOLE (for himself, Mr. NICKLES, Mr. BOND, Mrs. HUTCHISON, Mr. MURKOWSKI, Mr. LOTT, Mr. COCHRAN, Mr. HATCH, Mr. DOMENICI, Mrs. KASSEBAUM, Mr. COATS, Mr. ABRAHAM, Mr. INHOFE, Mr. SMITH, Mr. SANTORUM, Mr. THOMPSON, Mr. WARNER, and Mr. KYL):

S. 343. A bill to reform the regulatory process, and for other purposes; to the Committee on the Judiciary.

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

Mr. DOLE. Mr. President, I rise to introduce legislation that begins the process of getting the regulatory state under control. This legislation represents a comprehensive effort to inject common sense into a Federal regulatory process that is often too costly, too arcane, and too inflexible.

Last November, the American people sent us a message: Rein in big Government. Stop wasting taxpayers' moneys. Stop passing the buck to State and local governments. Stop micromanaging our lives through burdensome and costly regulations.

We are responding to that message. Our agenda reduces Government—in size and scope—and increases individual freedom. Our agenda will restore the true balance between Government and individual reflected in the 10th amendment, which leaves all powers not given to the Federal Government to the States or to the people.

Our agenda is a package of reforms—and make no mistake about it, we need them all. The first set of reforms focus on making Congress accountable and responsible—cutting spending; stopping unfunded mandates; balancing the budget; and a line-item veto. But, as important, we need to make the agencies that have come to regulate almost every aspect of our lives just as accountable and responsible—we need regulatory reform.

Mr. President, the true scope of regulations in America is staggering: OMB estimates that the private sector spends more than 6.6 billion hours in 1 year complying with regulations; and the costs of regulation on our economy are conservatively estimated at $500 billion.

And it is not merely a matter of too many regulations or whether they make sense. They are often inflexible and unfair. It is very difficult for one person or one business to take on the Government—even if they are right. Sometimes they must, just to survive, and the costs of enforcement are often a dead weight loss to society in terms of lost productivity and innovation.

I know of one small business in Paola, KS, that spent 5 years in a lawsuit with OSHA and finally settled for $6,000. This company typically spends between $7,500 and $10,000 annually for legal and management costs just dealing with OSHA. The regulatory state is out of control.

Mr. President, this legislation will accomplish six major objectives:

First, responsibility. Major regulations—those with $50 million impact on the economy—will go through an analysis that ensures that the benefits outweigh the costs;

Second, sound science. Risk assessments will be based on realistic data and sound science and will be part of the agency decisionmaking process;

Third, accountability. We will put a stop to the practice of expanding Federal power and jurisdiction beyond what a statute provides. We will insist that the public be informed of the true costs and benefits of regulation, and that those affected by regulations be able to enforce these requirements in a court of law;

Fourth, congressional oversight. We ensure Congress' overall responsibility

by providing for a 45-day period in which Congress may review major regulations before they take effect;

Fifth, remedying past mistakes. There are undoubtedly many regulations that impose costs that wildly exceed the benefits. We allow for review of existing regulations in order to weed out past mistakes; and

Sixth, small business relief. The costs of regulations often fall disproportionately on those least able to cope—small businesses. We reform the Regulatory Flexibility Act that is already law, by allowing small businesses the ability to enforce its provisions in court.

Mr. President, there are a lot of good ideas out there about regulatory reform. We want to hear them. But we will insist that fundamental reform be enacted this year. The American people deserve nothing less.

I ask unanimous consent that the legislation I introduce today be printed in the RECORD.

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

S. 343

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 ''Comprehensive Regulatory Reform Act of 1995''.

SEC. 2. ANALYSIS OF AGENCY PROPOSALS.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

''§ 621. Definitions

''For purposes of this subchapter and subchapter III of this chapter—

''(1) the term 'agency' has the same meaning as in section 551(1) of this title;

''(2) the term 'person' has the same meaning as in section 551(2) of this title;

''(3) the term 'rule' has the same meaning as in section 551(4) of this title;

''(4)(A) the term 'major rule' means—

''(i) a rule or a group of closely related rules that the agency proposing the rule or the President reasonably determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased direct and indirect costs, or has a significant impact on a sector of the economy; or

''(ii) a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, or by the President on the ground that the rule is likely to result in—

''(I) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions; or

''(II) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets;

''(B) the term 'major rule' does not include—

''(i) a rule that involves the internal revenue laws of the United States; or

''(ii) a rule that authorizes the introduction into commerce, or recognizes the marketable status, of a product;

''(5) the term 'benefit' means the reasonably identifiable significant benefits, including social and economic benefits, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule;

''(6) the term 'cost' means the reasonably identifiable significant costs and adverse effects, including social and economic costs, reduced consumer choice, substitution effects, and impeded technological advancement, that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule; and

''(7) the term 'market-based mechanism' means a regulatory program that—

''(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

''(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

''(C) permits regulated persons to respond automatically to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates.

''§ 622. Rulemaking cost-benefit analysis

''(a)(1) Prior to publishing notice of a proposed rulemaking for any rule (or, in the case of a notice of a proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(4)(A)(i) and, if it is not, whether it should be designated a major rule under section 621(4)(A)(ii). For the purpose of any such determination or designation, a group of closely related rules shall be considered as one rule.

''(2) Each notice of proposed rulemaking shall include a succinct statement and explanation of the agency's determination under paragraph (1).

''(b)(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(4)(A)(i) and has not designated the rule a major rule within the meaning of section 621(4)(A)(ii), the President may, as appropriate, determine that the rule is a major rule or designate the rule a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 60 days after such date of enactment).

''(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

''(c)(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking record a draft cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

''(B)(i) When the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file a draft cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

''(ii) Following the issuance of a draft cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment pursuant to section 553 of this title in the same manner as if the draft cost-benefit analysis had been issued with the notice of proposed rulemaking.

''(2) Each draft cost-benefit analysis shall contain—

''(A) an analysis of the benefit of the proposed rule, and an explanation of how the agency anticipates each benefit will be achieved by the proposed rule;

''(B) an analysis of the costs of the proposed rule, and an explanation of how the agency anticipates each such cost will result from the proposed rule;

''(C) an identification (including an analysis of the costs and benefits) of reasonable alternatives for achieving the identified benefits of the proposed rule, including alternatives that—

''(i) require no Government action;

''(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

''(iii) employ performance or other market-based standards that permit the greatest flexibility in achieving the identified benefits of the proposed rule and that comply with the requirements of subparagraph (D);

''(D) an assessment of the feasibility of establishing a regulatory program that operates through the application of market-based mechanisms;

''(E) in any case in which the proposed rule is based on one or more scientific evaluations or information or is subject to the risk assessment requirements of subchapter III, a description of actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluations or scientific information in accordance with the risk assessment requirements of subchapter III;

''(F) an assessment of the aggregate effect of the rule on small businesses with fewer than 100 employees, including an assessment of the net employment effect of the rule; and

''(G) an analysis of whether the identified benefits of the proposed rule are likely to exceed the identified costs of the proposed rule, and an analysis of whether the proposed rule will provide greater net benefits to society than any of the alternatives to the proposed rule, including alternatives identified in accordance with subparagraph (C).

''(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking record a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

''(2) Each final cost-benefit analysis shall contain—

''(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking, including the market-based mechanisms identified pursuant to subsection (c)(2)(D); and

''(B) an analysis, based upon the rulemaking record considered as a whole, of—

''(i) whether the benefits of the rule outweigh the costs of the rule; and

''(ii) whether the rule will provide greater net benefits to society than any of the alternatives described in the rulemaking, including the market-based incentives identified pursuant to subsection (c)(2)(D).

''(e)(1)(A) The description of the benefits and costs of a proposed and a final rule required under this section shall include, to

the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate unit of measurement, using comparable assumptions, including time periods, and shall specify the ranges of predictions and shall explain the margins of error involved in the quantification methods and in the estimates used. An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible.

''(B) Where practicable, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry by industry basis.

''(2)(A) In evaluating and comparing costs and benefits and in evaluating the risk assessment information developed pursuant to subchapter III, the agency shall not rely on cost, benefit, or risk assessment information that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rulemaking to assess the accuracy, reliability, and uncertainty factors applicable to such information.

''(B) The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs shall be clearly articulated in accordance with this section.

''§ 623. Decisional criteria

''(a) No final rule subject to this subchapter shall be promulgated unless the agency finds that—

''(1) the potential benefits to society from the rule outweigh the potential costs of the rule to society, as determined by the analysis required by section 622(d)(2)(B); and

''(2) the rule will provide greater net benefits to society than any of the reasonable alternatives identified pursuant to section 622(c)(2)(C), including the market-based mechanisms identified pursuant to section 622(c)(2)(D).

''(b) The requirements of this section shall supplement the decisional criteria for rulemaking otherwise applicable under the statute granting the rulemaking authority, except when such statute contains explicit textual language prohibiting the consideration of the criteria set forth in this section. Where the agency finds that consideration of the criteria set forth in this section is prohibited by explicit statutory language, the agency shall transmit its finding to Congress, along with the final cost-benefit analysis required by section 622(d)(2)(B).

''§ 624. Judicial review

''(a) Compliance or noncompliance by an agency with the provisions of this subchapter shall be subject to judicial review in accordance with this section.

''(b)(1) Each of the following shall be subject to judicial review:

''(A) A determination by an agency or by the President that a rule is or is not a major rule within the meaning of section 621(4).

''(B) A designation by an agency or by the President of a rule as a major rule.

''(C) A decision by an agency or by the President not to designate a rule a major rule.

''(2) A determination by an agency or by the President that a rule is not a major rule within the meaning of section 621(4), or the decision by an agency or by the President not to designate a rule a major rule, shall be set aside by a reviewing court only upon a showing of clear and convincing evidence that the determination or decision not to designate is erroneous in light of the information available to the agency at the time the determination or decision not to designate was made.

''(3) An action to review a determination that a rule is not a major rule or to review a decision not to designate shall be filed not later than 30 days after the date of publication of such determination or failure to designate.

''(c) If a court of the United States finds that a rule should have been reviewed pursuant to this subchapter, such rule shall have no force or effect until such time as the requirements of this subchapter are met.

''(d) Each court with jurisdiction to review final agency action under the statute granting the agency authority to conduct the rulemaking shall have jurisdiction to review findings by any agency under this subchapter and shall set aside agency action that fails to satisfy the decisional criteria of section 623. The court shall apply the same standards of judicial review that apply to the review of agency findings under the statute granting the agency authority to conduct the rulemaking.

''§ 625. Petition for cost-benefit analysis

''(a)(1) Any person subject to a major rule may petition the relevant agency or the President to perform a cost-benefit analysis under this subchapter for the major rule, including a major rule in effect on the date of enactment of this subchapter for which a cost-benefit analysis pursuant to such subchapter has not been performed, regardless of whether a cost-benefit analysis was previously performed to meet requirements imposed before the date of enactment of this subchapter.

''(2) The petition shall identify with reasonable specificity the major rule to be reviewed.

''(3) The agency or the President shall grant the petition if the petition shows that there is a reasonable likelihood that the costs of the major rule outweigh the benefits, or that reasonable questions exist as to whether the rule provides greater net benefits to society than any reasonable alternative to the rule that may be more clearly resolved through examination pursuant to this subchapter and subchapter III.

''(4) A decision to grant or deny a petition under this subsection shall be made not later than 180 days after submittal. A decision to deny a petition shall be subject to judicial review immediately upon denial as final agency action under the statute granting the agency authority to conduct the rulemaking.

''(b) For each major rule for which a petition has been granted under subsection (a), the agency shall conduct a cost-benefit analysis in accordance with this subchapter, and shall determine whether the rule satisfies the decisional criteria set forth in section 623. If the rule does not satisfy the decisional criteria, then the agency shall take immediate action to either revoke or amend the rule to conform the rule to the requirements of this subchapter and the decisional criteria under section 623.

''(c) For purposes of this section, the term 'major rule' means any major rule or portion thereof.

''(d)(1) Any person may petition the relevant agency to withdraw, as contrary to this subchapter, any agency guidance or general statement of policy that would be a major rule if the guidance or general statement of policy had been adopted as a rule.

''(2) The petition shall identify with reasonable specificity why the guidance or general statement of policy would be major if adopted as a rule.

''(3) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that the guidance or general statement of policy would be major if adopted as a rule.

''(4) A decision to grant or deny a petition under this subsection shall be made not later than 180 days after the petition is submitted. If the agency fails to act by such date, the petition shall be deemed to have been granted. A decision to deny a petition shall be subject to judicial review immediately upon denial as final agency action under the statute under which the agency has issued the guidance or general statement of policy.

''(e) For each petition granted under subsection (d), the agency shall be prohibited from enforcing against any person the regulatory standards or criteria contained in such guidance or policy unless included in a rule proposed and promulgated in accordance with this subchapter.

''§ 626. Effective date of final regulations

''(a)(1) Beginning on the date of enactment of this section, all deadlines in statutes that require agencies to propose or promulgate any rule subject to this subchapter are suspended until such time as the requirements of this subchapter are satisfied.

''(2) Beginning on the date of enactment of this section, the jurisdiction of any court of the United States to enforce any deadline that would require an agency to propose or promulgate a rule subject to subchapter II of chapter 5 of title 5, United States Code (as added by this section), is suspended until such time as the requirements of this subchapter are satisfied.

''(3) In any case in which the failure to promulgate a rule by a deadline would create an obligation to regulate through individual adjudications, the obligation to conduct individual adjudications shall be suspended to allow the requirements of this subchapter to be satisfied.

''(b)(1) Before a major rule takes effect as a final rule, the agency promulgating such rule shall submit to the Congress a copy of such rule and a report containing a concise general statement relating to the rule, including a complete copy of the cost-benefit analysis, and the proposed effective date of the rule.

''(2) A major rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

''(A) the later of the date occurring 45 days after the date on which—

''(i) the Congress receives the report submitted under paragraph (1); or

''(ii) the rule is published in the Federal Register;

''(B) if the Congress passes a joint resolution of disapproval described under subsection (h) relating to the rule, and the President signs a veto of such resolution, the earlier date—

''(i) on which either House of Congress votes and fails to override the veto of the President; or

''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

''(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (h) is enacted).

''(c) A rule shall not take effect as a final rule if the Congress passes a joint resolution of disapproval described under subsection (h).

''(d)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this section may take effect if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

''(2) Paragraph (1) applies to a determination made by the President by Executive

order that the rule should take effect because such rule is—

''(A) necessary because of an imminent threat to health or safety or other emergency;

''(B) necessary for the enforcement of criminal laws; or

''(C) necessary for national security.

''(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (h) or the effect of a joint resolution of disapproval under this section.

''(4) This subsection and an Executive order issued by the President under this subsection shall not be subject to judicial review by a court of the United States.

''(e)(1) Subsection (h) shall apply to any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

''(2) For purposes of subsection (h), a rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

''(3) During the period between the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

''(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (h) shall be treated as though such rule had never taken effect.

''(g) If the Congress does not enact a joint resolution of disapproval under subsection (h), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

''(h)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the report referred to in subsection (b) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the _____ relating to _____, and such rule shall have no force or effect. (The blank spaces being appropriately filled in.)'.

''(2)(A) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution shall not be reported before the eighth day after its submission or publication date.

''(B) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

''(i) the Congress receives the report submitted under subsection (b)(1); or

''(ii) the rule is published in the Federal Register.

''(3) If the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) at the end of 20 calendar days after its submission or publication date, such committee may be discharged by the Majority Leader of the Senate or the Majority Leader of the House of Representatives, as the case may be, from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

''(4)(A) When the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) shall be waived. The motion shall be highly privileged in the House of Representatives and shall be privileged in the Senate and shall not be debatable. The motion shall not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

''(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall be in order and shall not be debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution shall not be in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

''(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

''(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

''(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

''(A) The resolution of the other House shall not be referred to a committee.

''(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

''(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

''(ii) the vote on final passage shall be on the resolution of the other House.

''(6) This subsection is enacted by Congress—

''(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''§ 627. Unauthorized rulemakings

''(a) Notwithstanding any other provision of law, beginning on July 1, 1995, any rule that expands Federal power or jurisdiction beyond the level of regulatory action needed to satisfy statutory requirements shall be prohibited.

''(b) Nothing in this section shall be construed to prevent any agency from promulgating a rule that repeals, narrows, or streamlines a rule, regulation, or administrative process, or from issuing or promulgating a rule providing for tax relief or clarification or reducing regulatory burdens.

''§ 628. Standard for review of agency interpretations of an enabling statute

''(a) In reviewing a final agency action under section 706 of this title, or under a statute that provides for review of a final agency action, the reviewing court shall affirm the agency's interpretation of the statute granting authority to promulgate the rule if, applying traditional principles of statutory construction, the reviewing court finds that the interpretation is clearly the interpretation of the statute intended by Congress.

''(b) If the reviewing court, applying traditional principles of statutory construction, finds that an interpretation other than the interpretation applied by the agency is clearly the interpretation of the statute intended by Congress, the reviewing court shall find that the agency's interpretation is erroneous and contrary to law.

''(c)(1) If the reviewing court, applying established principles of statutory construction, finds that the statute gives the agency discretion to choose from among a range of permissible statutory constructions, the reviewing court shall affirm the agency's interpretation where the record on review establishes that—

''(A) the agency has correctly identified the range of permissible statutory constructions;

''(B) the interpretation chosen is one that is within that range; and

''(C) the agency has engaged in reasoned decisionmaking in determining that the interpretation, rather than other permissible constructions of the statute, is the one that maximizes net benefits to society.

''(2) If an agency's interpretation of a statute cannot be affirmed under paragraph (1), the reviewing court shall find that the agency's interpretation is arbitrary and capricious.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''§ 651. Procedures

''The President shall—

''(1) establish procedures for agency compliance with subchapters II and III; and

''(2) monitor, review, and ensure agency implementation of such procedures.

''§ 652. Promulgation and adoption

''(a) Procedures established pursuant to section 651 shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

''(b)(1) If procedures established pursuant to section 651 include review of preliminary or final regulatory analyses to ensure that they comply with subchapters II and III, the time for any such review of a preliminary regulatory analysis shall not exceed 30 days following the receipt of the analysis by the President or by an officer to whom the authority granted under section 651 has been delegated pursuant to section 653.

''(2) The time for review of a final regulatory analysis shall not exceed 30 days following the receipt of the analysis by the President or such officer.

''(3)(A) The times for each such review may be extended for good cause by the President or such officer for an additional 30 days.

''(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

''§ 653. Delegation of authority

''(a) The President may delegate the authority granted by this subchapter to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

''(b)(1) Notice of any delegation, or any revocation or modification thereof, shall be published in the Federal Register.

''(2) Any notice with respect to a delegation to the Vice President shall contain a statement by the Vice President that the Vice President will make every reasonable effort to respond to congressional inquiries concerning the exercise of the authority delegated under this section.

''§ 654. Applicability

''The authority granted under this subchapter shall not apply to rules issued by the Nuclear Regulatory Commission.

''§ 655. Judicial review

''The exercise of the authority granted under this subchapter by the President or by an officer to whom such authority has been delegated under section 653 shall not be subject to judicial review in any manner under this chapter.''.

(b) JUDICIAL REVIEW OF REGULATORY FLEXIBILITY ANALYSIS.—

(1) AMENDMENT.—Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) Except as provided in paragraph (2), not later than 1 year after the effective date of a final rule with respect to which an agency—

''(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

''(B) prepared final regulatory flexibility analysis pursuant to section 604,

an affected small entity may petition for the judicial review of such certification or analysis in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review such certification or analysis.

''(2)(A) Except as provided in subparagraph (B), in the case of a provision of law that requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), such lesser period shall apply to a petition for the judicial review under this subsection.

''(B) In a case in which an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed not later than—

''(i) 1 year; or

''(ii) in a case in which a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), the number of days specified in such provision of law,

after the date the analysis is made available to the public.

''(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

''(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

''(5)(A) In a case in which an agency certifies that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

''(B) In a case in which the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604.

''(6) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

''(A) to prepare the analysis required by section 604; or

''(B) to take corrective action consistent with section 604 of this title,

the court may stay the rule or grant such other relief as it deems appropriate.

''(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

''(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after the date of enactment of this Act.

(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Part I of title 5, United States Code, is amended by striking out the chapter heading and table of sections for chapter 6 and inserting in lieu thereof the following:

''CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

''SUBCHAPTER I—REGULATORY ANALYSIS

''Sec.
''601. Definitions.
''602. Regulatory agenda.
''603. Initial regulatory flexibility analysis.
''604. Final regulatory flexibility analysis.
''605. Avoidance of duplicative or unnecessary analyses.
''606. Effect on other law.
''607. Preparation of analyses.
''608. Procedure for waiver or delay of completion.
''609. Procedures for gathering comments.
''610. Periodic review of rules.
''611. Judicial review.
''612. Reports and intervention rights.

''SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

''621. Definitions.
''622. Rulemaking cost-benefit analysis.
''623. Decisional criteria.
''624. Judicial review.
''625. Petition for cost-benefit analysis.
''626. Effective date of final regulations.
''627. Unauthorized rulemakings.
''628. Standard for review of agency interpretations of an enabling statute.

''SUBCHAPTER III—RISK ASSESSMENTS

''631. Definitions.
''632. Applicability.
''633. Rule of construction.
''634. Requirement to prepare risk assessments.
''635. Principles for risk assessment.
''636. Principles for risk characterization and communication.
''637. Regulations; plan for assessing new information.
''638. Decisional criteria.
''639. Regulatory priorities.
''640. Establishment of program.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''651. Procedures.
''652. Promulgation and adoption.
''653. Delegation of authority.
''654. Applicability.
''655. Judicial review.''.

(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

''SUBCHAPTER I—REGULATORY ANALYSIS''.

By Mr. DOMENICI (for himself and Mr. INOUYE):

S. 346. A bill to establish in the Department of the Interior the Office of Indian Women and Families, and for other purposes; to the Committee on Indian Affairs.

THE OFFICE OF WOMEN AND FAMILIES IN THE BUREAU OF INDIAN AFFAIRS ACT OF 1995

• Mr. DOMENICI. Mr. President, today I am pleased to be joined by the vice chairman of the Senate Committee on Indian Affairs, Senator DANIEL K. INOUYE, in introducing a bill to create the Office of Women and Families in the Bureau of Indian Affairs [BIA], U.S. Department of Interior. I am grateful for Senator INOUYE's support of this legislation. We hope to improve Federal Government attention and services for Indian women and their families, with a special emphasis on the economic well-being of Indian women and families including employment and business opportunities. This new office will be responsible for addressing the special needs of Indian women and families within the cultural context of each tribe or village. Existing and new Federal policies for the benefit of Indian people will be better focused on Indian women who are too often ignored by policy makers and agency programs.

I am also pleased to report that this legislation has now been endorsed by the Eight Northern Indian Pueblos of New Mexico and the Judiciary Committee of the Navajo Nation Council.

The Office of Women and Families in the BIA will be responsible for integrating the needed policy and program

changes in the BIA programs and coordinating with other Federal agencies and tribal governments to improve the living conditions of Indian women and their families.

I would like to quote from a letter I received in support of this concept from Dr. Carolyn M. Elgin, president of the Southwestern Indian Polytechnic Institute and Federal Women's Program Manager for the BIA's Albuquerque Area. Dr. Elgin says,

> Throughout the National Indian Community, the diverse and specialized needs of Indian women and Indian families need to be comprehensively addressed (congressional attention, budget appropriations, program development and policy consideration within the Bureau). Again, I applaud your sensitivity and fully support your legislative efforts on behalf of Indian women and families.

Mr. President, the Federal Government spends over hundreds of millions of dollars per year for Indian programs in several key departments including Interior, Health and Human Services, Labor, Education, Housing and Urban Development, Transportation, Commerce, and other agencies like the Small Business Administration.

While the BIA is the theoretical center of our country's efforts to improve the daily lives of 2,000,000 American Indians—about half of whom reside on federally recognized Indian reservations, many other Federal departments or agencies have some involvement with Indians. There is, however, very little coordination among these Federal agencies who serve the same target population.

While this bill will establish the new office in the BIA, its thrust will include all major programs affecting Indian women and families. Before I explain more about these programs, I would like to focus on the need to pay special attention to Indian women and families.

In brief, Indians are the poorest of the poor. Elsie Zion of the Women Studies Program at the University of New Mexico describes it this way: ''Indian women are the poorest of the poorest group. While American women come up against a 'glass ceiling,' Indian women have problems getting off the floor.'' In this case, she means that too many Indian women have a ''hard time getting jobs outside the fields of cleaning, cooking, or clerking.''

Regarding Indian family members, some of the highest youth suicide rates in America occur on Indian reservations. I know this is true for the Jicarilla Apache Tribe and the Navajo Nation. Many Pueblo Indians also have disproportionately high suicide rates. Substance abuse is a severe problem among young Indians.

By examining program and policy failures, it is our hope that new methods can be tried to inspire, educate, and employ more young Indian people. We want to keep them away from the dangers of drugs, alcohol, and other self-destructive behaviors. An Office of Women and Families can certainly go far in helping to idenify weaknesses in the fabric of Federal programs intended to improve the quality of life on Indian reservations.

The Office of Women and Families is not simply another BIA program. It is built in, permanent policy mechanism to shape programs and enhance the potential for direct benefits to Indian women and families within existing and new programs of the BIA and the Federal Government as a whole.

This new policy program should focus on Federal Government policies relating to such concerns as job opportunities for Indian women and Indian youth suicide. The Office could also focus on such related employment issues as trade between Indian reservations and Japan or Europe. The idea is to identify those problem areas that require new policy attention, better programmatic effort, or enhanced coordination with other Federal programs like the Minority Business Development Administration of the Department of Commerce and small business development programs of the Small Business Administration.

We are also very concerned that basic BIA programs be better targeted to reach Indian women. Indian women-owned businesses, for example, can be encouraged more often through start-up grants and guaranteed loans. BIA social service, drug and alcohol abuse prevention, and child protection programs can be enhanced and improved.

INVISIBLE WOMEN

Due mainly to their strong cultural traditions, it is often difficult to determine the impact of these Federal efforts on the living standards of Indian women and their families. Indian women remain an enigma to most of us. In Santa Fe, NM, we can see the famous scenes of Indian women at the Palace of the Governor selling their famous pots and jewelry. At pueblo feast days and public dances we are impressed by their elaborate dress and serene dancing styles. These women clearly have a strong presence and influence in the daily lives of New Mexico Pueblo, Navajo, and Apache tribes of New Mexico.

Yet, there remains the fact that we have a difficult time identifying many of the indicators of social well-being for Indian women precisely because the contributions of Indian women remain undervalued and overlooked in the policies and programs of the Bureau of Indian Affairs and other Federal agencies with programs designed to help all Indian people.

As the National Advisory Council on Women's Educational Program once observed:

> To date there has been no specific Federal recognition of the special educational and training needs of Indian women and girls. As a result, Indian women are often relegated to position which do not reflect their capacity and potential contribution not only to tribal governments but to the general society.

Elsie Zion of the Women Studies Program at the University of New Mexico, who I quoted above, has searched for statistics to back her observations. Indians, she concludes, ''fall at the very bottom of indicators of status and well-being.''

Elsie is skeptical that the ''Great White Father''—in the form of the BIA—will actually help Indian women. That is one reason this office is designed to reach out into the reservations themselves to encourage female participation in the forming and implementation of BIA policy and programs.

Wherever key Federal policies exist that directly impact on the social conditions of Indian women, the BIA Office of Women and Families can have a policy impact, and hence a direct impact on the lives of Indian women and families who could be or should be participating.

INDIAN CHILDREN AND YOUTH IN DISTRESS

The Indian Child Welfare Act (P.L. 95–608) and the Indian Child Protection Act (P.L. 101–630) are two good recent examples of Congressional attempts to improve conditions for young Indians. The Child Welfare Act creates a grant system to tribes for child and family service programs to prevent the break-up of Indian families and provide for the protection of Indian children. The Child Protection Act is designed to protect Indian children from family violence or abuse by bureau or tribal contract employees. Background checks, a reporting system and other child protective services are mandated by the act.

The Director and the Policy Task Force of the proposed Office of Women and Families could help refine the reporting systems to assure solid measurement of progress made to minimize abuse or violence to Indian children and youth. If the proposed system is found to be adequate, the results will certainly help in the annual reports to the Congress on the well-being of Indian families as measured by the increased safety factors required by these acts.

Other problems of young Indians can also be identified and reported. Substance abuse, alcoholism, school drop-out rates or teenage pregnancy are examples of additional indicators to be monitored by the new Office of Women and Families. Summer youth employment and vocational education potential are examples of other Department of Labor and BIA programs available to young Indians to enhance their potential and minimize problems like substance abuse and school drop-outs.

BACKGROUND ON FEDERAL PROGRAMS FOR AMERICAN INDIANS

Mr. President, the Federal Government has wide-ranging policies and programs intended to improve the living conditions on some 250 Indian reservations and about 300 Native Alaskan

villages. These programs include education, health care, business development, housing, job training, tribal government, transportation, law enforcement, and social services. Several Federal departments and agencies are primarily involved in the delivery of services to Native Americans—Interior, Health and Human Services, Housing and Urban Development, Labor, and Education.

The two major providers of services to Native Americans are the Indian Health Service of the Public Health Service in the Department of Health and Human Services [HHS] and the Bureau of Indian Affairs [BIA] in the Department of Interior. The IHS had a budget of $2.0 billion in fiscal year 1993; the BIA's budget was $1.5 billion for the same fiscal year.

Public housing for Indians in the HUD budget was about $257 million in fiscal year 1993; Labor committed $84.6 million for job training and summer jobs; HUD's Community Development Program for Indians totalled $65.4 million; and construction of Indian reservation roads was about $190 million.

Clearly, there are many Federal Government programs that have direct impact on the daily lives of about 1.959 million Indian people in America—up from 1.42 million in 1980. About half of them live on Indian reservations.

There is also no doubt that Indians lag seriously behind other ethnic groups in several key areas. Overall, they have lower household incomes, higher unemployment and less schooling than the rest of the United States.

Indian birth rates—28.8 per 1,000 population—are almost twice that of the country as a whole—15.9 per 1,000. Prenatal care accompanying live births are lower than the United States as a whole—56.5 percent to 74.2 percent. More Indians die from accidents, alcoholism, diabetes, homicide, and tuberculosis than others in the country as a whole.

Fortunately, the Congress passed and the President signed a bill, the Indian Health Care Improvements Act of 1992, to improve the health programs and policies of the Indian Health Service [IHS], Public Health Service, U.S. Department of Health and Human Services. This act includes my amendment establishing an Office of Indian Women's Health in the IHS.

This new IHS office will certainly enhance and focus the good efforts of the IHS to identify and collect data about the health status of American Indian Women. While there is clearly room for improvement, the IHS is at least aware of the gaps in health care between Indian women and American women as a whole.

Obviously, Mr. President, the policies and programs of the U.S. Government have a greater impact on American Indians than most people realize. Hundreds of treaties and a large body of law define our special government-to-government relationship with Indian tribes. Their special trust status with our Government also plays a critical role in defining the responsibility of the U.S. Government to American Indians and Alaska Natives.

EDUCATION AND EMPLOYMENT

Educational attainment is a key indicator of well-being in America. For American Indian women there is a large lag in high school graduates compared to the population in general. The high school graduation rate for Indian females is about 65.3 percent compared to 74.8 percent for all American women. For college graduates the gap widens considerably. Only 8.6 percent of Indian women graduate from college compared to 17.6 percent for all American women.

Unfortunately employment statistics are hard to get for Indians, and the figures vary greatly. The BIA has often affirmed unemployment rates of 30 percent to 60 percent on many reservations. New Mexico Pueblos often have unemployment rates in the 40 percent to 50 percent range. This data is not readily available by sex. As a key indicator of general well-being, I hope the Office of Women and Families will be able to influence the collection of data regarding employment and unemployment among Indian women and teenagers.

From the 1990 Census we have some encouraging data about Indian-owned businesses in New Mexico. The latest information from the 1990 Census reflects 1987 data. These data show that almost 800 Indian men and almost 500 Indian women own their own businesses. I would like to see this new office encourage more direct assistance to Indian women who are eligible for many BIA and Small Business Administration programs.

OFFICE OF INDIAN WOMEN AND CHILDREN

It seems to me, Mr. President, that the Indian women of this country are in a particularly valuable position to offer good advice to our Government about ways to conduct policies and programs that are intended to improve conditions that affect these women and their families. This new office clearly fits within the electorate's demand that our Government carry out its responsibilities with greater efficiency and with clearer purposes.

No one has yet called our national Indian policies a success. It is time to expand our efforts to reach out, in culturally appropriate ways, to solicit their thoughts about improving Federal programs so that a real difference is made in daily reservation life.

In similar ways, young Indians can be included in designing and improving current programs to increase their effectiveness. The American Indian family is a vital structure to strengthen and preserve and we seek to enhance our national policies for their well-being.

Initially, a temporary policy task force would be established to develop a policy paper to articulate a clear set of goals, objectives, management strategies, and monitoring systems for the improvement of key quality of life indicators for Indian women and families like the ones I have mentioned. There are, of course, many other areas of concern to be identified by the new Office and its related policy task force.

Once articulated, these indicators could tell us about the degree to which Indian women and their families are participating in economic development and benefiting from new job opportunities on Indian reservations. Policymakers and program managers would have better data on educational achievement and needs of Indian children and youth. Health statistics—from the Office of Women's Health at the Indian Health Service—could, for example, tell us how serious alcoholism is among Indian women and what program improvements are needed to enhance treatment.

A Director of the Office of Women and Families would be responsible for integrating the needed changes in the BIA programs and coordinating with other Federal agencies to meet the policy goals and objectives established by the policy task force.

This new office and its related policy mechanisms will have the flexibility to look into such areas as education, health, employment, economic development, housing, social, and other services of the BIA and other relevant Federal programs serving Indian women and families. By focusing on Indian women and families, the work of the BIA and other relevant Federal programs will be enhanced by their participation in the design and improvement of ongoing programs for Indian beneficiaries.

As we prepare to strengthen our democracy and our economy for the 21st century, we must not overlook any potential for a greater America. There is a growing awareness of the need to pay close attention to the inter-relationships between our national strength and the well-being of all women. Key factors are health, education, employment, housing, child care, business potential, and culture.

There is no doubt that Indian women have long been essential to the well-being of Indian people and their families. As we strive to attain new levels of education, health, business involvement, employment, and housing quality for American Indians, we clearly need the ongoing participation and direct involvement of Indian women.

I believe the strong family ties and responsibilities of Indian women can be enhanced by more attention to specific policies and programs now designed generally for American Indians without any special regard for the differing cultural roles and responsibilities of Indian women.

I ask unanimous consent that the Office of Indian Women and Families Act of 1995, be printed in the RECORD.

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

S. 346

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 ''Office of Indian Women and Families Act of 1995''.

SEC. 2. FINDINGS.

Congress finds that:

(1) The primary responsibilities of the Bureau of Indian Affairs are to encourage and assist Indian people to manage their own affairs under the trust relationship between Indians and the Federal Government, and to facilitate, with maximum involvement of Indian people, full development of their human and natural resource potential.

(2) The Bureau of Indian Affairs coordinates its activities with Indian tribal governments, Federal agencies and departments, and other organizations and groups who share similar interests and programs related to Indians.

(3) Bureau of Indian Affairs policies, programs and projects impact directly and significantly on the lives of America's Indian people.

(4) The unique roles and responsibilities of Indian women contribute culturally, socially, and economically to the well-being of Indian people, but these contributions are often not fully realized and are undervalued and overlooked within the policies, program, and projects of the Bureau of Indian Affairs.

(5) Indian children have special educational and social service needs to prepare them for traditional tribal responsibilities and nontribal social and employment opportunities.

(6) The particular responsibilities, contributions, and needs of Indian women and families can and should be taken into account to improve Bureau of Indian Affairs policy formulation and program operations for the direct benefit of Indian women and families and Indian people as a whole.

(7) Bureau of Indian Affairs policies, programs and projects, including its coordination and liaison with other Federal, State, and local entities, can be more responsive and enhanced when Indian women and families are considered an integral element of the process as well as contributors to the success of these policies, programs, and projects.

(8) There is a need for an Office of Indian Women and Families in the Bureau of Indian Affairs for the purpose of encouraging and promoting the participation and integration of Indian women and families into Bureau of Indian Affairs policies, programs, projects, and activities, thereby improving the effectiveness of its mandate and the status and lives of Indian women and families.

SEC. 3. PURPOSES.

The purposes of this Act are:

(1) To identify and integrate the issues related to Indian women and families into all Bureau of Indian Affairs policies, programs, projects, and activities. There will be a special emphasis on the economic well-being of Indian women and families including employment and business opportunities.

(2) To establish an office to serve as a focal point for all Federal Government policy issues affecting Indian women and families for purposes of both economic and social development.

(3) To collect data related to the specific roles, concerns, and needs of Indian women, and Indian families, and use such data to support policy, program, and project implementation throughout all offices of the Bureau of Indian Affairs and other Federal agencies, and to monitor the impacts of these policies, programs and projects.

(4) To enhance the economic and social participation of Indian women and families in all levels of planning, decisionmaking, and policy development within the Bureau of Indian Affairs, its area offices, and tribal governments and reservations.

(5) To conduct research and collect relevant studies relating to special needs of Indian women and families.

(6) To develop pilot programs and projects to strengthen activities of the Bureau of Indian Affairs involving Indian women and families, and serve as models for future endeavors and planning.

(7) To ensure a liaison with other Federal departments and agencies, State and local governments, tribally controlled community colleges, other academic institutions, any public or private organizations, and tribal governments that serve Indian peoples.

(8) To ensure training endeavors for Bureau of Indian Affairs offices and agencies at the national, area, and local levels to ensure Bureau personnel and any other beneficiaries of Bureau and other governmental programs understand the purposes and policies of the office established by this Act.

(9) To develop policy-level programs, with the assistance of the Assistant Secretary and other senior-level personnel of the Bureau of Indian Affairs, to ensure that systems, directives, management strategies and other related methodologies are implemented to meet the purposes of this Act.

(10) To strengthen the role of Indian women and families by developing and ensuring culturally appropriate policies and programs.

(11) To encourage other actions that serve to more fully integrate Indian women and families as participants in and agents for change in the Federal policy and program activities of the Bureau of Indian Affairs.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term ''Indian woman'' means a woman who is a member of an Indian tribe.

(2) The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

SEC. 5. ESTABLISHMENT OF OFFICE OF INDIAN WOMEN AND INDIAN FAMILIES.

(A) ESTABLISHMENT.—There is established in the Department of the Interior the ''Office of Indian Women and Families'' (hereinafter referred to as the ''Office'').

(b) DIRECTOR.—The Office shall be under the management of a director (hereinafter referred to as the ''Director''), who shall be appointed by the Assistant Secretary of Indian Affairs. The Director shall report directly to the Assistant Secretary of Indian Affairs.

(c) COMPENSATION.—The Director shall be compensated at the rate prescribed for level IV of the Executive Schedule under section 5313 of title 5, United States Code.

(d) TENURE.—The Director shall serve at the discretion of the Assistant Secretary of Indian Affairs.

(e) VACANCY.—A vacancy in the position of Director shall be filled in the same manner as the original appointment was made.

(f) DUTIES.—The Director shall administer the Office and carry out the purposes and functions of this Act. The Director shall take such action as may be necessary in order to integrate Indian women and family issues into the Bureau of Indian Affairs policies, programs, projects and activities.

SEC. 6. FUNCTIONS OF OFFICE.

It shall be the function of the Office to develop a Policy Paper for Indian women and families to articulate the objectives of the Office, to serve as a guideline for systematically integrating Indian women and families issues into the Bureau of Indian Affairs policies, programs, projects, and activities, and to establish and detail indicators and benchmarks for measuring the success of the Office.

SEC. 7. POLICY TASK FORCE.

(a) ESTABLISHMENT OF A POLICY TASK FORCE.—The Director, in consultation with the Assistant Secretary of Indian Affairs, shall establish a temporary policy task force on Indian women and families.

(b) MEMBERSHIP.—Members of the task force shall be appointed by the Director. The task force shall include representatives from Federal agencies and departments, relevant Indian organizations, State agencies and organizations, Indian tribal governments, institutions of higher education, and nongovernmental and private sector organizations and institutions.

(c) FUNCTIONS.—The policy task force shall:

(1) Ensure that the Policy Paper for Indian women and families prepared by the Bureau of Indian Affairs articulates a set of goals, objectives, management strategies, and monitoring systems for the improvement of all Federal programs, including programs of the Bureau of Indian Affairs, designed to improve the quality of life of Indian women and families.

(2) Recommend a permanent policy mechanism to be established in the Bureau of Indian Affairs for the continuous monitoring and refinement of policy and programs designed to improve the quality of life of Indian women and families.

(3) Recommend a permanent policy mechanism to be established in the Bureau of Indian Affairs for the purpose of collecting and disseminating to Congress and the public information and other data relevant to the progress of the policy and programs designed to improve the quality of life of Indian women and families.

(d) TERMINATION.—The task force shall terminate upon the expiration of 14 months following the date of the enactment of this Act.

SEC. 8. ASSISTANT SECRETARY OF INDIAN AFFAIRS.

The Assistant Secretary of Indian Affairs shall:

(1) Ensure that the Office receives adequate resources to carry out the purposes of this Act.

(2) Ensure that senior-level staff members and other employees of the Bureau of Indian Affairs are participants in and responsible for assisting in carrying out the purposes of this Act relating to the improvement of policies and programs of the Bureau of Indian Affairs.

SEC. 9. REPORTING.

The Secretary of the Interior, acting through the Bureau of Indian Affairs, shall, on or before March 15 of each of the 2 calendar years next following the calendar year in which this Act is enacted, and biennially thereafter, report to Congress on the progress of achieving the purposes of this Act. Such report shall include, but not be limited to, information relative to the current status of progress of the Bureau of Indian Affairs' policy on Indian women and Indian families in fulfilling its objectives, programs and projects, including how well the Bureau of Indian Affairs has operationally integrated the issue of Indian women and families into its overall policies, programs, projects and activities. Such report shall include a review of data gathered to assess and improve the quality of life of Indian women

and families, including specific recommendations to improve the education, health, employment, economic, housing, social, and other services within the Bureau of Indian Affairs relating to Indian women and families.

SEC. 10. AUTHORIZATIONS.

Commencing with fiscal year 1994, and each fiscal year thereafter, there are authorized to be appropriated for carrying out the provisions of this Act, $2,000,000.●

By Ms. SNOWE (for herself and Mr. BROWN):

S. 347. A bill to amend the Immigration and Nationality Act to make membership in a terrorist organization a basis of exclusion from the United States; to the Committee on the Judiciary.

THE TERRORIST EXCLUSION ACT OF 1995

● Ms. SNOWE. Mr. President, today I am reintroducing legislation I originally drafted and introduced in the last Congress as a Member of the other body. This legislation would deny U.S. visas to known members of terrorist organizations.

Under current law, a visa can be denied to a known member of a terrorist organization only if the United States has compelling evidence that the individual was personally involved in a past terrorist act or if it is known that the person is coming to the United States to conduct such an act. Current law requires extraordinary steps to override the presumption that mere membership in a terrorist group is not grounds for denying a visa. high-level determination is required by the Secretary of State that permitting entry of the individual will be damaging to American foreign policy interests. My legislation will reverse that presumption. Under this bill, a known member of a group that conducts acts of terrorism will be excluded from the United States unless the Secretary of State determines on an individual basis that granting the visa would advance U.S. foreign policy interests.

I discovered this dangerous loophole in our immigration laws last Congress during my investigation of the State Department failures that allowed the radical Egyptian cleric, Sheikh Omar Abdel Rahman, to travel to and reside in the United States since 1990. Sheikh Rahman is the spiritual leader of Egypt's terrorist organization, the Islamic Group. His followers have been convicted for the 1993 bombing of the World Trade Center in New York, and the Sheikh himself is now on trial for his alleged role in planning and approving a second wave of terrorist acts in the New York City area.

Last year, I also found out through the investigation of the senior Senator from Colorado [Mr. BROWN] that the State Department has in the past used this legal loophole to grant a visa to Tunisia's Sheikh Rashid el-Ghanoushi, the convicted leader of the Islamic fundamentalist terrorist organization Ennadha. At this very moment, the State Department is still considering a visa request by Sheikh Ghanoushi. A letter I received from the State Department on this matter confirmed that they interpret current law to require them to issue a visa to Ghanoushi—an acknowledged member of a terrorist organization—unless they can prove that he personally was involved in a terrorist act. Apparently his conviction in Tunisia for his part in an assassination plot against Tunisia's pro-Western President Ben Ali is not enough. Nor is the fact that he fled his country after his underground Islamic fundamentalist terrorist group launched violent attacks against the Government. Nor, apparently, do his virulently anti-Western and anti-Israeli statements have any relevance to the visa decisions, as far as the State Department is concerned.

Mr. President, after the recent rash of terrorist bombings in Israel, Argentina, Panama, and Britain, many countries are waking up to their vulnerability to terrorists. As reported in the July 28, 1994 Christian Science Monitor, the British Parliament is considering enacting legislation similar to this bill. Furthermore, this fall, the Anti-Defamation League—an organization whose very purpose is to protect the civil and religious liberties of all Americans—also included my bill in their proposed legislative package on terrorism.

It is well known that many foreign terrorist organizations depend on money raised in the United States for a major portion of their funding. There are also disturbing indications that many of these organizations are working to develop networks of members and supporters in our own country. Last week, the administration took the useful step of freezing the U.S. assets of certain terrorist organizations working against the peace process in the Middle East. But this action needs to be strengthened by also slamming the door on members of terrorist organizations who continue to travel freely to and within our country unfettered by our visa laws.

Mr. President, I am confident that in the Senate this matter will receive the kind of fair treatment here that it deserves. I also note and welcome recent statements by the administration claiming that it too is now taking the terrorism issue seriously. After finding no need for my legislation last Congress, on January 20, 1995, the Secretary of State gave a speech at Harvard University in which he announced that the administration was going to strengthen its efforts against international terrorism. He specifically stated, ''we will toughen standards for obtaining visas for international criminals to gain entry to this country.'' I hope this means that the administration is finally willing to support legislation needed to accomplish this goal.

The urgency of passing the Terrorist Exclusion Act comes from the sad truth that every day American lives continue to be put at risk out of deference to some imagined first amendment rights of foreign terrorists. This is an extreme misinterpretation of our cherished Bill of Rights, which the founders of our great nation intended to protect the liberties of all Americans. In my reading of the U.S. Constitution I see much about the protection of the safety and welfare of Americans, but nothing about protecting the rights of foreign terrorists to travel freely to the United States whenever they choose.

Mr. President, I hope that this issue will be addressed swiftly by the 104th Congress. I hope that we do not put off its consideration yet again, only to have the issue suddenly reappear in reaction to what might have been an avoidable loss of American lives.●

By Mr. NICKLES (for himself, Mr. DOLE, Mr. BOND, Mrs. HUTCHINSON, Mr. MCCONNELL, and Mr. LOTT):

S. 348. A bill to provide for a review by the Congress of rules promulgated by agencies, and for other purposes; to the Committee on Governmental Affairs.

THE REGULATORY OVERSIGHT ACT

● Mr. NICKLES. Mr. President, I am introducing legislation to provide for a 45-day layover of Federal regulations to permit Congress to review and, potentially, reject regulations before they become final.

The Regulatory Oversight Act will improve the opportunity for Congress to ensure Federal agencies are properly carrying out congressional intent. All too often agencies issue regulations which go beyond the sense of reason.

This act provides a 45-day period following publication of a final rule before that rule may become effective. This 45-day period will provide Congress with an opportunity to review the rule and enact, if it so chooses, a joint resolution of disapproval on a fast-track basis.

Significant final rules, which the act defines as final rules that increase compliance costs on State, local, and tribal governments and the private sector of at least $100 million in any year may not take effect until at least 45 days after the rule is published. This is the same threshold in the unfunded mandates bill. Under current law, most rules already are delayed by 30 days pending the filing of an appeal. The delay of 45 days is provided in this act to avoid economic uncertainties and harm from these very large and burdensome rules during the congressional review period.

Final regulations addressing threats to imminent health or safety, or other emergencies, criminal law enforcement, or matters of national security, could be exempted by Executive order from the postponement of the effective date provided in the bill. However, a joint resolution of disapproval would still be eligible for fast-track consideration.

Although a joint resolution may be introduced by any Member of Congress,

the fast-track process for floor consideration of the joint resolution of disapproval is only available under two conditions: First, if the authorizing committee reports out the resolution; or second, if the majority leader of either House of Congress discharges the committee. The joint resolution, if passed by both Houses, would be subject to a Presidential veto and, in turn, a possible veto override.

In reality, perhaps only a few regulations will be rejected by this process. But by providing a mechanism to hold Federal agencies accountable before it is too late, the Regulatory Oversight Act makes an important contribution to the critical regulatory reform effort.

At this time I would like to ask unanimous consent that a detailed summary and the text of the Regulatory Oversight Act to be printed in the RECORD.

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

S. 348

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

SECTION 1. CONGRESSIONAL REVIEW OF RULES.

(a) SHORT TITLE.—This Act may be cited as the ''Regulatory Oversight Act of 1995''.

(b) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by inserting after section 553 the following new section:

''§ 553a. Congressional review of rules

''(a) For purposes of this section the term 'significant rule' means any rule that may have an annual effect on the economy of $100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

''(b)(1) Before a rule takes effect as a final rule, the agency promulgating such rule shall submit to the Congress a report containing—

''(A) a copy of the rule;

''(B) a concise general statement relating to the rule;

''(C) the proposed effective date of the rule; and

''(D) a complete copy of the cost benefit analysis of the rule, if any.

''(2) A significant rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

''(A) the later of the date occurring 45 days after the date on which—

''(i) the Congress receives the report submitted under paragraph (1); or

''(ii) the rule is published in the Federal Register;

''(B) if the Congress passes a joint resolution of disapproval described under subsection (h) relating to the rule, and the President signs a veto of such resolution, the earlier date—

''(i) on which either House of Congress votes and fails to override the veto of the President; or

''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

''(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (h) is enacted).

''(3) Except for a significant rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

''(c) A rule shall not take effect as a final rule, if the Congress passes a joint resolution of disapproval described under subsection (h).

''(d)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this section may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

''(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

''(A) necessary because of an imminent threat to health or safety or other emergency;

''(B) necessary for the enforcement of criminal laws; or

''(C) necessary for national security.

''(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (h) or the effect of a joint resolution of disapproval under this section.

''(4) This subsection and an Executive order issued by the President under this subsection shall not be subject to judicial review by a court of the United States.

''(e)(1) The provisions of subsection (h) shall apply to any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

''(2) For purposes of subsection (h), a rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

''(3) During the period beginning on the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

''(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (h) shall be treated as though such rule had never taken effect.

''(g) If the Congress does not enact a joint resolution of disapproval under subsection (h), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

''(h)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the report referred to in subsection (b) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the _____ relating to _____, and such rule shall have no force or effect. (The blank spaces being appropriately filled in.)'.

''(2)(A) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

''(B) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

''(i) the Congress receives the report submitted under subsection (b)(1); or

''(ii) the rule is published in the Federal Register.

''(3) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under paragraph (2)(B), such committee may be discharged by the Majority Leader of the Senate or the Majority Leader of the House of Representatives, as the case may be, from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

''(4)(A) When the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

''(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

''(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

''(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

''(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

''(A) The resolution of the other House shall not be referred to a committee.

''(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

''(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

''(ii) the vote on final passage shall be on the resolution of the other House.

''(6) This subsection is enacted by Congress—

''(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in

the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 553 the following:

''553a. Congressional review of rules.''.

(d) EFFECTIVE DATE.—This Act shall take effect on the date of the enactment of this Act and shall apply to any significant rule that takes effect as a final rule on or after such effective date.

THE REGULATORY OVERSIGHT ACT OF 1995

A bill to amend the Administrative Procedures Act to provide for a 45-day period during which the Congress may enact a joint resolution of disapproval under a ''fact track'' procedure.

Provides a 45-day period after publication of any final rule by a federal agency, during which the Congress has an opportunity to review the rule and, if it chooses, enact a joint resolution of disapproval on a fast-track basis. The joint resolution of disapproval would declare that the rule has no force or effect.

The joint resolution of disapproval may be vetoed by the President, and Congress has the opportunity to override the veto.

Upon issuing a final rule, a federal agency must send to Congress a report containing a copy of the rule and the complete cost/benefit analysis, if any, prepared for the rule. The 45-day period for congressional review would begin on the date the Congress receives the agency's report on the rule, or on the date the final rule is published in the *Federal Register*, whichever, is later. Any Senator or Representative may introduce a resolution of disapproval, which will be referred to the committees of jurisdiction.

Congress will have 45 days to review final rules and consider a resolution of disapproval, under the expedited procedures established in this Act. All final rules that are published less than 60 days before a Congress adjourns sine die, or that are published during sine die adjournment, shall be eligible for review and ''fast track'' disapproval procedures for 45 days beginning on the date the new Congress convenes.

If the committee of jurisdiction has not reported the resolution of disapproval within 20 calendar days from the date the rule is published in the *Federal Register*, the Majority Leader of the Senate and the Majority Leader of the House of Representatives, respectively, may discharge the committee(s) and place the resolution of disapproval directly on the Calendar.

Once the resolution of disapproval is placed on the Calendar by the appropriate committee or by the Majority Leader, any senator may make a motion to proceed to the resolution. The motion to proceed is privileged and is not debatable. Once the Senate has voted to proceed to the resolution of disapproval, debate on the resolution of disapproval is limited to ten hours, equally divided, with no motions (other than motion to further limit debate) or amendments in order. If the resolution passes one body, it is eligible for immediate consideration on the Floor of the other body.

''Significant'' final rules, which the Act defines as final rules that have an economic effect on State, local, and tribal governments and the private sector of at least $100 million in any year, may not take effect until at least 45 days after the rule is published. However, ''significant'' final regulations addressing imminent threats to health and safety, or other emergencies, criminal law enforcement, or matters of national security, may be exempted by Executive Order from the 45-day minimum delay in the effective date. The decision by the President to exempt any significant final rule from the delay is not subject to judicial review. Under current law, most rules already are delayed by 30 days pending the filing of an appeal. The delay of 45 days is provided in this Act to avoid economic uncertainties and harm from these very large and burdensome rules during the congressional review period.

The effective date of the ''significant'' final rule would not go into effect after the 45-day period if the resolution of disapproval has passed both Houses within that time. If the joint resolution of disapproval is vetoed, the effective date of the final rule will continue to be postponed until 30 legislative days have passed after the veto, or the date on which either House fails to override the veto, whichever is earlier.

Generally, judicially-ordered deadlines would still apply to the dates agencies must issue the final rule, but would not apply to the 45-day postponement of the effective date for ''significant'' rules.●

By Mr. MCCAIN (for himself and Mr. KYL):

S. 349. A bill to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program; to the Committee on Indian Affairs.

THE NAVAJO-HOPI RELOCATION HOUSING PROGRAM REAUTHORIZATION ACT

● Mr. MCCAIN. Mr. President, today I am introducing a bill to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program. I am pleased that Senator KYL has joined me on this bill as an original cosponsor.

I believe that most of my colleagues have at least some familiarity with the tragic land disputes which have divided the Navajo and Hopi Tribes for more than a century. In 1974 the Congress acted to try to bring about a resolution of those disputes through a partition of the disputed lands and the relocation of the members of each tribe from the lands partitioned to the other tribe. This has proven to be a difficult and contentious process and the original Settlement Act has been amended twice to try to resolve problems which arose in its implementation.

Since the enactment of the Settlement Act, 4,432 Navajo and Hopi families have applied for relocation benefits. Of those, 3,255 have been certified eligible and 11,177 have been denied benefits. Of those who were denied benefits, 223 are engaged in active appeals. A total of 2,434 families had been relocated as of the end of 1994 and 544 eligible families were awaiting their benefits.

Most of the 544 families still awaiting benefits long ago complied with the law and voluntarily left their homes which are located on lands partitioned to the other tribe. Unfortunately, the pace of the relocation housing program has been such that on average fewer than 200 eligible families are served in each calendar year.

The bill we are introducing today will provide 2 more years of authority for appropriations for the relocation housing program. It is my understanding that Office of Navajo and Hopi Indian Relocation is in the process of preparing a report for the appropriations committees which will provide information on the amount of funding necessary to complete the relocation program and an estimate of the time this will take. I look forward to reviewing that report. I also look forward to the hearing on this bill because it will provide an opportunity for the Committee on Indian Affairs to evaluate the relocation housing program to ensure that it is being operated as fairly and efficiently as possible.

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

There being no objection, the bill was ordered to be printed in the RECORD.

S. 349

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

SECTION 1. REAUTHORIZATION OF APPROPRIATIONS FOR THE NAVAJO-HOPI RELOCATION HOUSING PROGRAM.

Section 25(a)(8) of Public Law 93–531 (25 U.S.C. 640d–24(a)(8)) is amended by striking ''1989,'' and all that follows through ''and 1995.'' and inserting ''1995, 1996, and 1997.''.●

By Mr. BOND:

S. 350. A bill to amend chapter 6 of title 5, United States Code, to modify the judiciary review of regulatory flexibility analyses, and for other purposes; to the Committee on the Judiciary.

REGULATORY FLEXIBILITY AMENDMENTS ACT

● Mr. BOND. Mr. President, today I am introducing the Regulatory Flexibility Amendments Act of 1995. The Regulatory Flexibility Act is of paramount importance to the 21 million U.S. small businesses. Small businesses employ 54 percent of the U.S. work force, account for 44 percent of all sales, and generate 39 percent of our gross domestic product.

Government regulations place extraordinary burdens on small businesses, and the result is to hinder their ability to compete at home and in the global marketplace. However, the Regulatory Flexibility Act, Reg Flex Act, if properly implemented and appropriately strengthened, can help ease the regulatory burdens on small businesses. I am very pleased the small business community endorses my bill. Furthermore, President Clinton has expressed his strong support for judicial review to permit small businesses to challenge Federal agencies under the Reg Flex Act.

THE REGULATORY FLEXIBILITY ACT

The Reg Flex Act is based on two premises. First, Federal departments and agencies often do not recognize the impact of rules on small businesses.

Second, small businesses are disproportionately affected by Federal regulations compared to their larger counterparts.

The Reg Flex Act was enacted to reduce, where appropriate, the impact of Federal regulations on small business. The Reg Flex Act requires Federal agencies to assess the impact of their proposals on small businesses. Agencies have two options under the statute—performing a regulatory flexibility analysis or issuing a certification.

An agency certifies a rule if it determines the rule will not have a significant economic impact on a substantial number of small businesses. The certification must be announced in the—Federal Register and must be accompanied by ''a succinct statement explaining the reasons for such certification.'' Boilerplate statements that the rule will not have such an effect are inadequate under the Reg Flex Act.

An agency assessment that reveals the rule will have a significant economic impact on a substantial number of small businesses requires the agency to prepare a regulatory flexibility analysis. The analysis must contain: a description of the reasons why the action is being considered; a succinct statement of the objectives of and legal basis for the action; a description and estimate of the number of small businesses affected by the agency action; a detailed description of the reporting, recordkeeping, and other compliance requirements with special attention to the affected small businesses; and any duplicative Federal regulations.

Additionally, the analysis must describe and examine significant alternatives to the proposed rule which can accomplish the objectives of the agency, but which minimize the economic impact on small businesses. Significant alternatives may include but are not limited to: First establishment of differing compliance or reporting requirements that take into account the resources available to small businesses; second, the use of performance rather than design standards; and third, exemptions of small businesses from all or part of the rule. When an agency promulgates a final rule under section 553 of the Reg Flex Act, it must explain why it did not adopt other alternatives to minimize the effects on small businesses which were presented to the agency during the rulemaking process.

WHY AMEND THE REG FLEX ACT?

Unfortunately, too many Federal regulators fail to exercise their responsibilities under the Reg Flex Act. When government agencies fail to comply with the act, they impose significant and burdensome requirements on small businesses and thereby threaten their viability. All too often, these agencies view the act as nothing more than another procedural impediment to the adoption of a particular rule. As a result, agencies issue boilerplate certifications without performing the underlying assessment of impacts on small businesses required by the Reg Flex Act. As long as Federal departments and agencies continue to act in this manner, small businesses will be the big losers.

MEANS TO STRENGTHEN AGENCY COMPLIANCE WITH THE REG FLEX ACT

My Regulatory Flexibility Act Amendment has one critical element: repeal the prohibition against judicial review.

The Reg Flex Act requires Federal departments and agencies to consider the impact of their actions on small businesses. However, in 1980, the authors of the act were concerned a litigation explosion might result under this law. The rationale being that businesses would attempt to delay the implementation of regulations through court action. To prevent this problem, the sponsors included a provision excluding separate judicial challenges to agency compliance with the Reg Flex Act.

Today, we realize it is highly unlikely there would be a flood of litigation if judicial review is permitted under the Reg Flex Act. The fact is, most small businesses do not have the financial resources to bring frivolous, unfounded lawsuits. However, my bill will insure that small business have the opportunity to challenge regulators who attempt to avoid the Reg Flex Act. As a consequence, my colleagues should not be fooled by the ''red herring'' of a threat of litigation explosion.

The ability of agencies to ignore their responsibilities under the Reg Flex Act is enhanced by the conspicuous absence of judicial review under the act. Without judicial review, compliance rests upon each agency's voluntary commitment to utilize the Reg Flex Act in its quest for rational rulemaking mandated by the Administrative Procedure Act [APA].

Small businesses do not need voluntary commitments, they need concrete action. The primary means to accomplish mandatory compliance will be to authorize small businesses hurt by an agency's failure to comply with the Reg Flex Act to challenge that agency in federal court. That is what my bill does.

CONCLUSION

Mr. President, the Regulatory Flexibility Amendments Act of 1995 will help curtail excessive regulation by Government bureaucrats. Furthermore, it will add teeth to the Reg Flex Act and give small businesses a legal means for countering continued violations of the act. The Reg Flex Act, if properly implemented and appropriately strengthened, can help ease the regulatory burdens on small businesses. Regulatory relief will create greater opportunities for small businesses, more jobs for American workers, and will expand the U.S. economy.

I urge my colleagues to support this reform of the Reg Flex Act.●

ADDITIONAL COSPONSORS

S. 47

At the request of Mr. SARBANES, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 47, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 50

At the request of Mr. LOTT, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 50, a bill to repeal the increase in tax on social security benefits.

S. 205

At the request of Mrs. BOXER, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 205, a bill to amend title 37, United States Code, to revise and expand the prohibition on accrual of pay and allowances by members of the Armed Forces who are confined pending dishonorable discharge.

S. 219

At the request of Mr. NICKLES, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 219, a bill to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes.

S. 233

At the request of Mr. MCCAIN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 233, a bill to provide for the termination of reporting requirements of certain executive reports submitted to the Congress, and for other purposes.

S. 241

At the request of Mr. D'AMATO, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 241, a bill to increase the penalties for sexual exploitation of children, and for other purposes.

S. 256

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 326

At the request of Mr. HATFIELD, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 326, a bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

AMENDMENTS SUBMITTED

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

DOLE (AND OTHERS) AMENDMENT NO. 229

(Ordered referred to the Committee on the Judiciary.)

Mr. DOLE (for himself, Mr. NICKLES, Mr. BOND, Mrs. HUTCHISON, Mr. MURKOWSKI, Mr. LOTT, Mr. COCHRAN, Mr. HATCH, Mr. DOMENICI, Mrs. KASSEBAUM, Mr. COATS, Mr. ABRAHAM, Mr. INHOFE, Mr. SMITH, Mr. SANTORUM, Mr. THOMPSON, Mr. WARNER, Mr. KYL) submitted an amendment intended to be proposed by them to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

At the appropriate place add the following:

''SUBCHAPTER III—RISK ASSESSMENTS

''§ 631. Definitions

''For purposes of this subchapter:

''(1) The term 'best estimate' means an estimate that, to the extent feasible and scientifically appropriate, is based on one or more of the following:

''(A) Central estimates of risk using the most plausible assumptions.

''(B) An approach that combines multiple estimates based on different scenarios and weighs the probability of each scenario.

''(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the agency concerned.

''(2) The term 'emergency' means a clearly imminent and substantial endangerment to public health, safety, or natural resources.

''(3) The term 'hazard identification' means identification of a substance, activity, or condition as potentially posing a risk to human health or safety or natural resources based on empirical data, measurements, testing, or scientifically acceptable methods showing that it has caused significant adverse effects at some levels of dose or exposure not necessarily relevant to level of dose or exposure that are normally expected to occur.

''(4) The term 'negative data' means data indicating that under certain conditions a given substance or activity did not induce an adverse effect.

''(5) The term 'plausible' means realistic and scientifically probable.

''(6) The term 'risk assessment' means—

''(A) the process of identifying hazards, and quantifying (to the extent practicable) or describing the degree of toxicity, exposure, or other risk the hazards pose for exposed individuals, populations, or resources; and

''(B) the document containing the explanation of how the assessment process has been applied to an individual substance, activity, or condition.

''(7) The term 'risk characterization'—

''(A) means the element of a risk assessment that involves presentation of the degree of risk to individuals and populations expected to be protected, as presented in any regulatory proposal or decision, report to Congress, or other document that is made available to the public; and

''(B) includes discussions of uncertainties, conflicting data, estimates, extrapolations, inferences, and opinions.

''(8) The term 'substitution risk' means a potential increased risk to human health, safety, or the environment from a regulatory option designed to decrease other risks.

''§ 632. Applicability

''(a) Except as provided in subsection (b), this subchapter shall apply to all risk assessments and risk characterizations prepared by, or on behalf of, or prepared by others and adopted by, any agency in connection with health, safety, and risk to natural resources.

''(b)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

''(A) a situation that the head of the agency considers to be an emergency;

''(B) a rule that authorizes the introduction into commerce, or recognizes the marketable status of a product; or

''(C) a screening analysis.

''(2)(A) An analysis shall not be treated as screening analysis for the purposes of paragraph (1)(B) if the result of the analysis is used—

''(i) as the basis for imposing a restriction on a substance or activity; or

''(ii) to characterize a positive finding of risks from a substance or activity in any agency document or other communication made available to the public, the media, or Congress.

''(B) Among the analyses that may be treated as a screening analyses for the purposes of paragraph (1)(B) are product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices and existing chemicals under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

''(3) This subchapter shall not apply to any food, drug, or other product label or to any risk characterization appearing on any such label.

''§ 633. Rule of construction

''Nothing in this subchapter shall be construed to—

''(1) preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability; or

''(2) require the disclosure of any trade secret or other confidential information.

''§ 634. Requirement to prepare risk assessments

''(a) Except as provided in section 632, the head of each agency shall prepare for each major rule relating to human health, safety, or natural resources that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for cost-benefit analysis pursuant to section 625 or petition for review pursuant to section 637—

''(1) a risk assessment in accordance with this subchapter;

''(2) for each such proposed or final rule, an assessment, quantified to the extent feasible, of incremental risk reduction or other benefits associated with each significant regulatory alternative to the rule or proposed rule; and

''(3) for each such proposed or final rule, quantified to the extent feasible, a comparison of any human health, safety, or natural resource risks addressed by the regulatory alternatives to other relevant risks chosen by the head of the agency, including at least 3 other risks regulated by the agency and to at least 3 other risks with which the public is familiar.

''(b) A risk assessment prepared pursuant to this subchapter shall be a component of and used to develop the cost-benefit analysis required by subchapter II, and shall be made part of the administrative record for judicial review of any final agency action.

''§ 635. Principles for risk assessment

''(a)(1) The head of each agency shall apply the principles set forth in subsection (b) when preparing any risk assessment, whether or not required by section 634, to ensure that the risk assessment and all of its components—

''(A) distinguish scientific findings and best estimates of risk from other considerations;

''(B) are, to the maximum extent practicable scientifically objective, unbiased and inclusive of all relevant data; and

''(C) rely, to the extent available and practicable, on scientific findings.

''(2) Discussions or explanations required under this section need not be repeated in each risk assessment document as long as there is a reference to the relevant discussion or explanation in another agency document.

''(b) The principles to be applied when preparing risk assessments are as follows:

''(1)(A) When assessing human health risks, a risk assessment shall be based on the most reliable laboratory, epidemiological, and exposure assessment data that finds, or fails to find, a correlation between a health risk and a potential toxin or activity. Other relevant data may be summarized.

''(B) When conflicts among such data appear to exist, or when animal data are used as a basis to assess human health, the assessment shall include discussion of possible reconciliation of conflicting information, and, as appropriate, differences in study designs, comparative physiology, routes of exposure, bioavailability, pharmacokinetics, and any other relevant factor, including the availability of raw data for review. Greatest emphasis shall be placed on data that indicates a biological basis of the resulting harm in humans. Animal data shall be reviewed with regard to relevancy to humans.

''(2) When a risk assessment involves selection of any significant assumption, inference, or model, the agency shall—

''(A) describe the plausible and alternative assumptions, inferences, or models;

''(B) explain the basis for any choices among such assumptions, inferences, or models;

''(C) identify any policy or value judgments involved in choosing from among such alternative assumptions, inferences, or models;

''(D) fully describe any model used in the risk assessment and make explicit the assumptions incorporated in the model; and

''(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

''(3) A risk assessment shall be prepared at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition.

''§ 636. Principles for risk characterization and communication

''In characterizing risk in any risk assessment document, regulatory proposal or decision, report to Congress, or other document that is made available to the public, each agency characterizing the risk shall comply with each of the following:

''(1)(A) The head of the agency shall describe the populations or natural resources that are the subject of the risk characterization.

''(B) If a numerical estimate of risk is provided, the head of the agency, to the extent feasible and scientifically appropriate—

''(i) shall provide—

''(I) the best estimate or estimates for the specific populations or natural resources which are the subject of the characterization

(based on the information available to the department, agency, or instrumentality) or, in lieu of a single best estimate, an array of multiple estimates (showing the distribution of estimates and the best estimate) based on assumptions, inferences, or models which are equally plausible, given current scientific understanding;

''(II) a statement of the reasonable range of scientific uncertainties; and

''(III) to the extent practicable and appropriate, descriptions of the distribution and probability of risk estimates to reflect differences in exposure variability in populations and uncertainties;

''(ii) in addition to a best estimate or estimates, may present plausible upper-bound or conservative estimates, but only in conjunction with equally plausible lower-bound estimates; and

''(iii) shall ensure that, where a safety factor, as distinguished from inherent quantitative or qualitative uncertainties, is used, such factor shall be similar in degree to safety factors used to ensure safety in human activities.

''(2) The head of the agency shall explain the exposure scenarios used in any risk assessment, and, to the extent feasible, provide a statement of the size of the corresponding population or natural resource at risk and the likelihood of such exposure scenarios.

''(3)(A) To the extent feasible, the head of the agency shall provide a statement that places the nature and magnitude of individual and population risks to human health in context.

''(B) A statement under subparagraph (A) shall—

''(i) include appropriate comparisons with estimates of risks that are familiar to and routinely encountered by the general public as well as other risks; and

''(ii) identify relevant distinctions among categories of risk and limitations to comparisons.

''(4) When an agency provides a risk assessment or risk characterization for a proposed or final regulatory action, such assessment or characterization shall include a statement of any significant substitution risks to human health identified by the agency or contained in information provided to the agency by a commenter.

''(5) If—

''(A) an agency provides a public comment period with respect to a risk assessment or regulation;

''(B) a commenter provides a risk assessment, and a summary of results of such risk assessment; and

''(C) such risk assessment is reasonably consistent with the principles and the guidance provided under this subtitle,

the agency shall present such summary in connection with the presentation of the agency's risk assessment or the regulation.

''§ 637. Regulations; plan for assessing new information

''(a)(1) Not later than 1 year after the date of enactment of this subchapter, the President shall issue a final regulation that has been subject to notice and comment under section 553 of this title for agencies to implement the risk assessment and characterization principles set forth in sections 635 and 636 and shall provide a format for summarizing risk assessment results.

''(2) The regulation under paragraph (1) shall be sufficiently specific to ensure that risk assessments are conducted consistently by the various agencies.

''(b)(1) Review of the risk assessment for any major rule shall be conducted by the head of the agency on the written petition of a person showing a reasonable likelihood that—

''(A) the risk assessment is inconsistent with the principles set forth in section 635 and 636;

''(B) the risk assessment produces substantially different results;

''(C) the risk assessment is inconsistent with a rule issued under subsection (a); or

''(D) the risk assessment does not take into account material significant new scientific data or scientific understanding.

''(2) Not later than 90 days after receiving a petition under paragraph (1), the head of the agency shall respond to the petition by agreeing or declining to review the risk assessment referred to in the petition, and shall state the basis for the decision.

''(3) If the head of the agency agrees to review the petition, the agency shall complete its review within 180 days, unless the Director of the Office of Management and Budget agrees in writing with an agency determination that an extension is necessary in view of limitations on agency resources.

''(4) Denial of a petition by the agency head shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

''(5) A risk assessment completed pursuant to a petition may be the basis for initiating a regulatory review pursuant to section 625.

''(c) The regulations under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

''(d) At least every 4 years, the President shall review, and when appropriate, revise the regulations published under this section.

''§ 638. Decisional criteria

''For each major rule subject to this subchapter, the head of the agency, subject to review by the President, shall make a determination that—

''(1) the risk assessment under section 634 is based on a scientific and unbiased evaluation, reflecting realistic exposure scenarios, of the risk addressed by the major rule and is supported by the best available scientific data, as determined by a peer review panel in accordance with section 640; and

''(2) there is no alternative that is allowed by the statute under which the major rule is promulgated that would provide greater net benefits or that would achieve an equivalent reduction in risk in a more cost-effective and flexible manner.

''§ 639. Regulatory priorities

''(a) In exercising authority under any laws protecting human health and safety or the environment, the head of an agency shall prioritize the use of the resources available under such laws to address the risks to human health, safety, and natural resources that—

''(1) the agency determines are the most serious; and

''(2) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources to be expended.

''(b) In identifying the sources of the most serious risks under subsection (a), the head of the agency shall consider, at a minimum—

''(1) the plausible likelihood and severity of the effect; and

''(2) the plausible number and groups of individuals potentially affected.

''(c) The head of the agency shall incorporate the priorities identified in subsection (a) into the budget, strategic planning, and research activities of the agency by, in the agency's annual budget request to Congress—

''(1) identifying which risks the agency has determined are the most serious and can be addressed in a cost-effective manner under subsection (a), and the basis for that determination;

''(2) explicitly identifying how the agency's requested funds will be used to address those risks;

''(3) identifying any statutory, regulatory, or administrative obstacles to allocating agency resources in accordance with the priorities established under subsection (a); and

''(4) explicitly considering the requirements of subsection (a) when preparing the agency's regulatory agenda or other strategic plan, and providing an explanation of how the agenda or plan reflects those requirements and the comparative risk analysis when publishing any such agenda or strategic plan.

''(d) In March of each year, the head of each agency shall submit to Congress specific recommendations for repealing or modifying laws that would better enable the agency to prioritize its activities to address the risks to human health, safety, and the environment that are the most serious and can be addressed in a cost-effective manner consistent with the requirements of subsection (a).

''§ 640. Establishment of program

''(a) The President shall develop a systematic program for the peer review of work products covered by subsection (c), which program shall be used uniformly across the agencies.

''(b) The program under subsection (a)—

''(1) shall provide for the creation of peer review panels consisting of independent and external experts who are broadly representative and balanced to the extent feasible;

''(2) shall not exclude peer reviewers merely because they represent entities that may have a potential interest in the outcome, if that interest is fully disclosed;

''(3) shall exclude, to the maximum extent practicable, any peer reviewer who has been involved in any previous analysis of the tests and evidence presented for certification by the peer review panel; and

''(4) shall provide for a timely completed peer review, meeting agency deadlines, which contains a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments.

''(c) The peer review and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

''(d) The proceedings of peer review panels under this section shall be subject to the applicable provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, I would like to announce that the Senate Committee on Governmental Affairs will hold a series of hearings on regulatory reform. The first hearing, on Tuesday, February 7, will provide a forum for various Senators to speak on the regulatory moratorium and regulatory reform proposals. The second hearing, on Wednesday, February 8, will provide a forum for various witnesses to discuss the problem of irrational regulations and the problems of the rising costs of regulation, the cumulative regulatory burden, and systematic problems with

the regulatory process. Subsequent hearings will cover the principles for reforming the regulatory process, including cost/benefit analysis, risk analysis, market incentives, periodic review of existing regulations, regulatory accounting, property rights, administrative process costs, and centralized review of regulations.

The hearings will be held in SD–342, from 9:30 a.m. to 12:30 p.m.

For further information, please call Paul Noe at (202) 224–4751.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the President's 1996 proposed budget.

The committee will hear testimony from the Department of Energy and the Federal Energy Regulatory Commission on Thursday, February 9, 1995.

The hearing will begin at 9:30 a.m., and will take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Betty Nevitt or Jim Beirne at (202) 224–0765.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, February 2, 1995, in open session, to receive testimony on the foundations of U.S. national strategy.

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

COMMITTEE ON FINANCE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Thursday, February 2, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on whether U.S. personal savings can be increased by targeted incentives.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 2, 1995, at 2 p.m. to hold a nomination hearing for Dr. Martin S. Indyk, of the District of Columbia, to be Ambassador to Israel.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SIMPSON. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Thursday, February 2, at 9:30 a.m. for a hearing on the subject: Reinventing Government II: Information Management Systems in the Federal Government.

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

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts, and Humanities be authorized to meet for a hearing on Education's Impact on Economic Competitiveness, during the session of the Senate on Thursday, February 2, 1995 at 9:30 a.m.

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

ADDITIONAL STATEMENTS

COMMERCIAL AVIATION FUEL TAX EXEMPTION

• Mr. SANTORUM. Mr. President, I am pleased to introduce a bill with Senator GORTON, Senator BRYAN, and others to repeal the commercial aviation fuel tax, and I am proud that this is the first piece of legislation I am introducing as a U.S. Senator. As I traveled throughout all of Pennsylvania's 67 counties this past year, it was clear that the threat to jobs and industry from this upcoming tax required immediate attention. In keeping with my promise to Pennsylvanians, I am confident that this will remove an obstacle to the recovery of an industry critical to Pennsylvania's economy.

This tax, which will take effect on October 1, 1995, will force the troubled airline industry to assume another massive financial burden. The Omnibus Budget Reconciliation Act of 1993 imposed a new 4.3 cents per gallon tax on commercial aviation fuel. At the time, the airline industry was experiencing deep financial difficulties, so the act granted a 2-year waiver on the imposition of this tax. Clearly, the industry has yet to recover, and a tax costing $527 million annually will have a devastating effect on service providers, airline manufacturers, and other related employers. More layoffs, increased ticket prices, and greater deterioration of consumer confidence in our Nation's airlines is not the goal of a responsible Congress.

Historically, the airline industry has been assessed excise and cargo taxes in lieu of a fuel tax. These alternate taxes amount to $5.4 billion annually. In addition, since 1990, the industry has lost $12.8 billion, nearly 120,000 employees have lost their jobs, and tens of thousands of airline manufacturing employees have been laid off. For a troubled industry which pays more than its fair share of taxes, I believe it is our responsibility to repeal this excessive and potentially destructive tax.

Last Autumn, 59 Senators and 4 future Senators, myself included, wrote to President Clinton seeking relief from this tax. This Congress, I am proud to report a groundswell of support amongst Republicans and Democrats in both the Senate and the House of Representatives. I hope this support continues unabated as we proceed to final passage of a repeal which is needed and in the best interests of our Nation's airline laborers, service employees, and the industry as a whole.

• Mr. GORTON. Mr. President, I am pleased to join with Senator SANTORUM, Senator BRYAN, and others in introducing a bill to repeal the fuel tax on commercial aviation. The effect of this bill will be simply to disallow the 4.3 cents per gallon fuel tax from going into effect on October 1, 1995. Two years ago, Congress correctly recognized that the airlines had undergone tremendous financial difficulties and that imposing another new tax upon this beleaguered industry made no sense—this remains true today.

The airline industry has lost approximately $12 billion in the last 4 years. The industry is aggressively trying to turn this picture around and is just now beginning to show some signs of success. In the last several years, the industry has had to resort to massive layoffs, wage and benefit concessions, route reductions, and substantial cuts in capital spending. Six of the largest airlines have caneled or deferred orders for 647 aircraft totaling $38 billion. Tens of thousands of airline and aircraft manufacturing employees have lost their jobs. Boeing's employment alone has dropped by 43,000 in the last 5 years due to a substantial decline in both the commercial and the defense business. Three major air carriers—United, Northwest, and TWA—have transferred substantial amounts of ownership to company employees in exchange for wage and benefit concessions.

In order to meet stage 3 aircraft noise requirements, it is estimated that the industry will spend $7 to $8 billion a year during the remainder of this decade. The industry cannot afford to add an additional $527 million a year in new taxes—this on top of the many taxes it is already paying. Most people, I believe, would be shocked to learn that the industry pays over $5.4 billion annually in excise taxes and fees, the equivalent to a 45.82 cents per gallon fuel tax.

Last year I was proud to serve on the National Airline Commission. In our report, we discussed the proposed fuel tax and other burdensome taxes placed upon the industry. It was our collective conclusion that, ''there are several tax provisions that impede the ability of the industry to return to financial health. We believe those provisions violate reasonable principles of common sense and good public policy.'' I hope the Congress will join with us in rejecting burdensome new taxes on this important industry and will support the enactment of this legislation.•

PUERTO RICO'S COLONIAL DILEMMA

• Mr. SIMON. Mr. President, representing Puerto Rico in the House of Representatives is CARLOS ROMERO-BARCELÓ, the former Governor of the Commonwealth of Puerto Rico.

I have worked with him through the years and have come to have great respect for him.

One of his passions is that Puerto Rican citizens not be second-class citizens but have all the rights that the rest of us, as Americans, have.

I share that passion with him.

The blatant inconsistency of the way we treat people in Puerto Rico should be on the consciences of those of us who serve in the House and the Senate.

Recently, Representative ROMERO-BARCELÓ sent a ''Dear Colleague'' to the Members of the House and enclosed an item of his that was published in the Washington Times about Puerto Rico.

I ask to insert that at the end of these remarks and urge my colleagues in the Senate and the House to listen to his powerful message.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 24, 1995.

Re Puerto Rico's colonial dilemma.

DEAR COLLEAGUE: On December 15, 1994, I wrote a column—a copy is provided on the reverse side—published in the Washington Times in which I discussed Puerto Rico's colonial dilemma and the unequal treatment of U.S. citizens in Puerto Rico.

For the past 97 years, Puerto Rico has been and still is a territory, or a colony, of the United States. The Island is home to 3.7 million American citizens who are disenfranchised and deprived of participating in the democratic process of the Nation. This disenfranchisement has been justified by a policy, created and maintained by Congress, which frees residents of Puerto Rico from paying Federal personal and corporate income taxes. Puerto Rico's residents do, however, pay most all other Federal taxes and user fees. In addition, this exemption from Federal income taxes has justified the exclusion of the island's residents in critical Federal programs such as Supplement Security Income [SSI].

Moreover, through section 936 of the Internal Revenue Code, the Federal Government has exempted subsidiaries of multi-national corporations in Puerto Rico from Federal corporate taxes. Section 936 has resulted in a socio-economic policy for Puerto Rico that is exactly opposite of the socio-economic policy of the rest of the Nation. While wealthy corporations in Puerto Rico are given billions of dollars in annual tax credits, the poor, the disabled, the elderly, and children at risk are denied the same safety net and economic opportunities that their follow citizens receive in the 50 States and the District of Columbia.

Like the District, Puerto Rico has no voting representation in Congress, yet its residents are also denied the right to vote in the Presidential elections. This is significant because the President is our top elected official and the one who makes daily policy decisions that affect all citizens, including those in Puerto Rico.

We preach the virtues of democracy throughout the world. Nevertheless, the United States still maintains the largest colony in the world—Puerto Rico—home to 3.7 million disenfranchised American citizens that are excluded from the democratic process of their Nation.

American citizens in Puerto Rico should not be denied full participation in our great democratic experience. Residents of the island should share in equality with their fellow citizens in the 50 States, not only in the rights and benefits protected by the U.S. Constitution but in the responsibilities and duties as well.

I urge you to read my column which sheds more light on Puerto Rico's colonial dilemma and the unequal and unfair treatment which our people receive as a result of the existing colonial relationship.

Sincerely,

CARLOS ROMERO-BARCELÓ.

[From the Washington Times, Dec. 15, 1994]

THE CASE FOR PUERTO RICO'S VOTING RIGHTS

(By Carlos Romero-Barceló)

Regarding your Dec. 6 editorial ''Taxation, representation and the District'': As Puerto Rico's only elected representative to Congress, I am, keenly aware of the limitations faced by the five delegates in the House of Representatives.

Since the early 1970s we have been able to vote in the House committees on which we serve. This important authority was secured by the Puerto Rican delegate of the time, Jorge Luis Cordova-Diaz. In 1993, Delegate Eleanor Holmes Norton did indeed actively seek and obtain the right to vote in the Committee of the Whole for herself and the other four delegates. Although this was merely symbolic, we nevertheless welcomed the opportunity for added participation in House proceedings.

With respect to the distinction you make between the District's representative and the other delegates on the basis of federal taxation in our respective districts, I differ with your analysis, at least in the case of Puerto Rico.

First, Puerto Rico, a U.S. territory since 1898, is home to 3.7 million American citizens, who are disenfranchised and deprived of participating in the democratic process of their nation. Federal personal income taxes are not levied on residents of the island, not because we don't want to pay them, but because Congress has maintained this policy since income taxes were first imputed in order to justify our disenfranchisement. Nevertheless, most other federal taxes and user fees are indeed applicable in Puerto Rico (e.g., Social Security taxes, unemployment taxes, Medicare taxes, customs duties, certain excise taxes and even income taxes on income derived outside of Puerto Rico). In fact, the U.S. Treasury collected from Puerto Rico $2.5 billion during 1993 (source Advanced Draft, IRS Commissioner's Report, 1993).

The congressional policy of not extending federal income taxes to the island has also been used as an excuse for not granting equal treatment in federal programs to U.S. citizens in Puerto Rico. For example, the Supplemental Security Income (SSI) program is not applicable to otherwise eligible U.S. citizens in Puerto Rico. Other critical programs such as Chapter I education funds, Medicaid, Aid to Families with Dependent Children and the Nutritional Assistance program are severely capped. Medicaid is capped at approximately 10 percent of what we would get if we were treated on an equal basis.

Moreover, Congress and successive administrations have put in effect a tax and economic policy that has a ''reverse Robin Hood effect.'' The federal government, for instance, has opted to exempt subsidiaries of U.S. corporations in Puerto Rico from federal corporate taxes through Section 936 of the Internal Revenue Code. The 936 tax credit has cost U.S. taxpayers $50 billion in the past two decades. According to the latest estimates from the Joint Committee on Taxation, Section 936 will cost the federal government $19.7 billion in the next five years. Congress has maintained, through Section 936, a tax policy that results in a socioeconomic policy for Puerto Rico that is exactly the opposite of the socioeconomic policy for the nation. While wealthy multinational corporations are given billions of dollars in annual tax credits (corporate welfare), hundreds of thousands of poor families the disabled, the elderly, and children are denied the same safety net and financial and economic support that their fellow citizens receive in the 50 states and the District of Columbia.

The public and the national media have the false impression that citizens in Puerto Rico do not pay any income taxes. Nothing could be further from the truth. People in Puerto Rico have indeed a very high local tax burden. Personal income taxes in Puerto Rico are generally higher than anywhere else in the United States, including jurisdictions where people pay local/state and federal income taxes.

Thus, it is the middle class, the working poor, the indigent, the elderly and the children who suffer the detrimental consequences of a federal taxation policy that makes no sense in Puerto Rico, we do not set the rules; Congress does I must reiterate that, just as in the case of the District, Congress has absolute power over the affairs of Puerto Rico. And just like the District, we have our version of ''home rule,'' inappropriately referred to as ''commonwealth.'' Make no mistake about it, Puerto Rico was and continues to be, de facto and de jure, a territory or colony of the United States.

Second, although residents of the District, like their counterparts in Puerto Rico, have no voting representation in Congress, at least they are able to vote in presidential elections. This is significant because the president is our top elected official and the one who makes the daily policy decisions that affect all citizens, including the ones in Puerto Rico. All U.S. citizens, including those abroad, are able to vote for the president, except those who make Puerto Rico and the other territories their home. People in Puerto Rico have no input in the election of the nation's commander in chief, notwithstanding the fact that they are subject to all federal laws and policies.

Thousands of U.S. citizens in Puerto Rico have paid the ultimate price and have died defending our shared democratic values. In our armed forces, more Puerto Ricans have died in armed conflicts during this century than citizens of any other state (on a per capita basis).

As mayor and governor, I have denounced federal tax policy toward Puerto Rico that benefits most those who are wealthy and penalizes the poor, the elderly, the children and the working class. I urge federal policymakers to take steps to extend full and equal economic benefits and responsibilities to Puerto Rico. Puerto Ricans and all U.S. taxpayers will benefit from uniform and sensible application of our fiscal laws and our socioeconomic policies.

Finally, I have always maintained that we want to share in equality with our fellow citizens in the 50 states, not only in the rights and benefits but in the responsibilities and duties as well. At least in the District of Columbia citizens are partially enfranchised with political power. Not so the 3.7 million U.S. citizens of Puerto Rico. Political power is the ultimate form of liberation.

It is ironic indeed that the virtues of democracy are being highlighted during the

Summit of the Americans while our nation denies 3.7 million citizens the right to participate in the democratic process. During the 1990s, the U.N. decade of decolonization, the United States must face the implications and repercussions of maintaining a colonial relationship with its territories.●

REMARKS OF OSBORN ELLIOTT

● Mr. MOYNIHAN. Mr. President, on January 12 the chairman of the Citizens Committee for New York City, Osborn Elliott, gave a thought-provoking speech on the role of journalism in public life. Mr. Elliott is the former dean of the Columbia University School of Journalism, and his remarks, which were made at the Key West Literary Seminar, deserve the attention of the Senate. Accordingly, I ask that the speech be included in the RECORD.

TIME FOR THE PRESS TO GET INVOLVED

(John Hersey Memorial Lecture by Osborn Elliott)

I'd like to tell you this evening about a love affair that is on the rocks.

The romance began a long time ago. It started as a schoolboy's infatuation, went roiling lustily through the pubescent years, and ultimately flowered into a deep and sustaining passion. There were ups and downs along the way, just as there are in any relationship. But the bonds grew stronger as the decades passed.

Now the affair is on the rocks, and I'm going to tell you why.

My romance with journalism began sixty years ago, when I was a little boy. On my way home from school one day, I stopped in at Mr. Rappaport's stationery store at 62nd Street and Third Avenue, to buy a Christmas card. In the back of his shop Mr. Rappaport kept an ancient press surrounded by wooden cases of type. He invited me to watch as he plucked letters from a font, handset his type, then put the great, hissing, clanking press into motion. Somehow, amid the aromatic chaos of printer's ink and noise, pristine sheets of stationery came flying out of that old machine.

To be young at Mr. Rappaport's was very heaven. It was the beginning of the affair.

Before you could say Arthur Ochs Sulzberger, I had acquired a toy typewriter, and was banging out my own newspaper, The Weekly Eagle, shamelessly plagiarizing Lindbergh kidnaping stories from the New York Daily News. I made three carbon copies of my paper so that circulation (at a nickel a copy) could extend beyond my parents to my brother and the woman who took care of me when my mother and father were at work. The weekly Eagle lasted three weeks, and its circulation never exceeded a total of four (unaudited).

After that came the thrill of working on my school magazine, and savoring that magical moment when copies would arrive from the printer, tightly wrapped in brown paper bundles. I would rip open the neat packages and wonder at how my henscratches had been miraculously converted into beautiful columns of type, marching down the page.

Later, in the Navy, it fell my lot to edit my ship's paper and to deliver the nightly news over the public-address system. And it was while I was still in the Navy, in the winter of 1945, that I had my first brush with big-time journalism. I was home on leave from Admiral Halsey's fleet in the Pacific and my parents had invited Charles Merz, editorial page editor of The New York Times, to dinner one night. Before we went in to eat, Charlie Merz picked up the phone and called the Times.

''Anything new from Halsey?'' he inquired as I listened, goggle-eyed. Later that evening, Merz took us on a tour of the Times, through the newsroom and down to the typesetting room where the gangly linotype machines hissed and clanked, much like Mr. Rappaport's press. Then to the composing room, where pages were laid out and the type was locked up. And finally, to the pressroom, where everyone seemed to be nervously eyeing a large clock on the wall. As the sweep secondhand made its way around the face of the clock, Charlie Merz stepped up to the press. At 11 p.m. on the dot he raised his arm and he flicked an impressive red switch labeled START.

Slowly, the huge press began to turn, then faster and faster and soon the place was roaring rhythmically as bundles of the next day's Times came thumping onto the loading dock below.

From that moment on, I was hooked—and for the better part of half a century my romance with journalism paid huge rewards. Struggling to learn the basics as a young business reporter, I came to realize that even the most esoteric topic can be of interest once you get to know something about it—even the workings of the non-ferrous metals market, my very first beat for the New York Journal of Commerce.

Journalism gave me the most amazing access to people and events. I had interviews with half a dozen presidents, audiences with two Popes and the emperor of Japan. I traveled through Africa, Europe, Asia and Russia—and spent the most interesting week in my life living, and learning, in the black ghettos of America.

I was nattered at by Nasser, charmed by Giscard, irritated by Indira, jollied up by JFK, lambasted by LBJ and nit-picked by Nixon. I fell in love (unrequited) with the likes of Sills, Bacall and Ullman. I called Leonard ''Lenny,'' Lauren ''Betty,'' Henry ''Henry'' and Teddy ''Ted.''

Who wouldn't be seduced by all that? My romance flourished.

But for all the fun and games, there was seriousness of purpose that underlay most of the journalism that was practiced in those years—a belief that what we journalists did was important, that journalism could play a constructive role in exposing, confronting and thus helping to solve the great problems of the day.

Sometimes our work was agonizing, as when we wrestled week in and week out with the contradictions of Vietnam, trying to reconcile the conflicting reports we were getting from Washington and from the field. Sometimes our work was exhilarating, as when we produced a special issue of Newsweek on Black America, complete with recommendations on how the nation might begin to ease its racial dilemma. And sometimes our work was ineffably sad, as when we deployed our forces to cover the assassination of first one Kennedy and then another, and the killing of Martin Luther King.

I tell you all this not because my experience was unique, but because it was so typical. As great issues unfolded, we journalists did our best to understand and explain them to our readers, listeners and viewers. We did not much question the motives of public figures—except when there was a clear attempt to mislead, as in the Watergate disaster. We did not dwell obsessively on process, preferring instead to deal in substance. We did not poke through the garbage of people in the public eye.

I think we played a central role, and a positive one, in helping a democratic system thrash its way through trauma after trauma and toward something approaching consensus.

Thus did my romance with journalism ripen and mature.

It's hard to pinpoint exactly when the relationship began to crumble, but crumble it did. It's even harder to explain why. So many factors were at work.

For one thing, I changed careers and moved into public service as a deputy mayor of New York City, and for the first time I had a view of journalism from the other side of the editor's desk. While I personally was treated well by the press, I found my old trade to be quixotic, unfocused, inaccurate and too often the prisoner of preconceptions. The assumption, for example, that anyone working for city government was, ipso facto, an incompetent drone—while I was learning that great numbers of city workers were actually dedicated and hard-working folk.

I also became aware of a failure of will within my old trade.

Strangely enough, no sooner had the power of journalism reached its zenith than editors began to back off from the fray. Having helped to topple one president—Nixon—and having derided another—Ford—and having snickered at a third—Carter—as he succumbed to a killer rabbit and other forces of evil, journalists found themselves uncomfortably close to the center of things and more and more being blamed when the business of the Nation seemed to be going wrong. So when yet another president—Reagan—took office with popularity ratings in the high seventies and eighties, some kind of unspoken decision was made to lay off.

I think journalism has a lot to account for as a result of this failure of will. By allowing a kind of social Darwinism—a.k.a. Reaganism—to go mostly unchallenged on the one hand, and by failing on the other hand to adequately expose the inane contradictions of supply-side theories, a.k.a. Reaganomics, I believe journalism deserves some of the blame for ills that now afflict us. I think journalism is also in part responsible for a default of the national spirit that recently has allowed a meanness to spread through the land.

What caused journalism to abdicate its responsibility in the eighties? Was it a function of exhaustion? Of fear? Of simple distraction? Probably a measure of each.

After the turmoil of the Sixties, the strains of Vietnam, the shock of assassinations, the tensions of the Cold War and the treacheries of Watergate, who wouldn't be tired?

And as readership began to shrink, and advertising dollars disappeared, who wouldn't be afraid to challenge the most popular President in memory?

Certainly there were distractions aplenty, as well. A kind of Gresham's law—or was it Murdoch's?—saw bad journalism chasing out the good in the scramble for ratings and readership. On the morning news, a new breed of elbow-in-the-ribs performers took over the airwaves. In the afternoon and evening, the Rush Limbaughs and Bob Grants and other big mouths of the far right took over talk radio.

Meanwhile, in America's videocracy the talk shows stooped to conquer the ratings as Maury and Montel and Sally Jessie and Phil and Geraldo engaged in mortal combat over who could produce the most shock or schlock. Last Sunday night, ''CNN Presents'' devoted an hour to deploring what is called ''The Media Circus'' and its obsession with the O.J. Simpson trial in particular. At the end of the hour, Judy Woodruff announced the topic for next Sunday's ''CNN Presents.'' You guessed it, O.J. Simpson.

Meanwhile, other Sabbath fare is offered weekly by Morton and Sam and Eleanor and

others of God's little wiseacres as they yell their opinions at one another. The jeering jabberers of journalism, my most unfavorite vice president might have called them.

All these trivial pursuits left their tracks on mainstream journalism, as well. Newspapers and magazines began to gibletize their contents, in imitation of U.S.A. Today. There were weeks when the assorted short subjects that fill the opening sections of Time magazine ran on so endlessly that few stayed around for the feature. And more and more the pressure grew to produce stories with an attitude, an edge, a spin, a barb. After all, by the time a piece appeared in print, hadn't everyone already seen it on television?

So zap it up, guys!

A small but telling case in point appeared not long ago on the front page of the New York Times, a story about President Clinton's visit to Oxford. The president, reported the Times, ''returned today for a sentimental journey to the university where he didn't inhale, didn't get drafted, and didn't get a degree.''

Zap!

Having withdrawn from the field in the eighties, it appeared that journalists were returning to the fray in the nineties—with a vengeance, and with a chip on the shoulder. In the cynical new journalism that resulted, it seemed there was an unkind cut for almost anyone in public office, and little sense that any public policy was much worth pursuing. A recent New Yorker piece by Adam Gopnik used these terms, among others, to describe the new curled-lip school of journalism: malicious, self-righteous, mean, shameless, sanctimonious, belligerent, aggressive, disingenuous, nasty.

We're not all that way, thank goodness. In her eloquent farewell column in the Times, Anna Quindlen said that twenty years in the news business had left her not more cynical but more idealistic—and anyone who knows Anna knows that to be the case. Hear these final words she wrote: ''Those who shun the prevailing winds of cynicism and anomie can truly fly.''

Someone has said that, ''One of the best ways of understanding journalism is having it done to you.'' Well, I've had it done to me a bit, and the only thing worse than having it done to you is not having it done to you.

In the process of organizing the ''Save Our Cities'' March on Washington in 1992, I spent months trying to whomp up media interest in the event. As I described how mayors in cities from coast to coast were organizing for the march, reporters and editors would look at me as if I was out of my mind. One day Mayor David Dinkins held a press conference on the steps of City Hall calling on New Yorkers to go to Washington and protest against the urban policies of their national government—Republican White House and Democratic congress alike.

To make sure he would get coverage, the mayor specified that this call to action would be his only press event that day. Hundreds of people showed up—leaders from labor, business, government, the churches, the neighborhoods of New York. Now, I would have thought that the very fact that the mayor was calling on New Yorkers to march against their national government might quality as news. But not a line appeared in any newspaper, and not a second on the air.

In the event, 250,000 people joined that march on Washington—apparently too good to be true. The New York Times printed an absurdly low-ball crowd estimate of 30,000 provided by a highly biased source—the National Park Service, a branch of the very government against which those quarter of million people were protesting! By accepting that low crowd estimate the Times almost forced itself to put a negative spin on the story.

In this age of journalism with a sneer, not only are events too often covered in this negative way. Many good stories get no attention at all. As chairman of the Citizens Committee for New York City, I see it all the time.

I think of a conference of 1,500 school kids who spent a whole Saturday discussing how to improve New York City's schools. Hardly a line of coverage.

I think of the 1,000 neighborhood leaders who gathered on another Saturday, a beautiful spring day, to swap advice on how to fight crime and drugs and make their neighborhoods safer and more beautiful. Not a line in print, not a second on the air.

I think of a town meeting that gathered 300 leaders from every segment of New York, to discuss the city's problems. Not a peep from the press.

As an officer of Columbia University for the last fifteen years, I think of the recent inauguration of a new president of Barnard College, a stirring event attended by scores of academic leaders from around the country and abroad.

Total silence from the news media.

It seems to me that journalism, my old love, just may have become part of the problem.

Journalists like to say that if you are being attacked from all sides you must be doing something right. It has also been suggested that if you are being attacked from all sides it's possible that you are doing everything wrong.

I hasten to add that this is not the case at all. For even in this age of cynicism and trivialization some excellent journalism is being done. We still see moving pieces, particularly in our newspapers, about homelessness and violence and teenage crime, all well reported and thoughtfully analytical.

A notable case in point was the New York Times's recent pieces on teenage violence, which ended with a thorough exploration of possible solutions. But the editor in me cries out: how can anyone be expected to keep track of a series that began last May and ran sporadically to December? Beats me.

It's in the area of problem-solving that I think journalism ought to start changing its ways. Too often, even worthy series concerning social problems leave out the final part—the part that offers up solutions. Says Davis Merritt, editor of the Wichita Eagle: ''If we continue to insist that engaging actively in the search for solutions isn't part of our job, we will soon, in fact, have no job.''

Merritt and his newspaper are at the forefront of an experimental movement that aims to engage citizens in public affairs. The Wichita Eagle and its editor have concluded that people are disenchanted with their institutions, and frustrated that their voices are not being heard. With public life apparently not working very well, Merritt and his Wichita colleagues have decided that the press now has the positive duty to ''intervene in public life in the interest of strengthening civic culture.''

How to do it?

In the case of The Wichita Eagle, the editors redesigned their political coverage in the last election to establish which issues were of real concern to citizens, and then forced the candidates to address those concerns—rather than just reporting on the tactical maneuvers of candidates or the machinations of political insiders. In 1992, the Eagle also launched its ''People Project: Solving It Ourselves''—an effort to engage both readers and the paper itself in identifying community problems and exploring ways to solve them.

Every single day, for ten weeks in a row, The Eagle opened up its pages to a consideration of problems that were important to the community—with emphasis on seeking solutions from the citizenry. The response was electric. One measurable result was that in the fall of 1992 volunteerism in Wichita's schools increased by 32 percent.

Similar exercises in ''public journalism'' have been undertaken by papers in dozens of cities around the country—from Charlotte, North Carolina, to Dayton, Ohio to Bremerton, Washington. Here are a few examples:

The Detroit Free Press published a major series on violence done to children. It then launched its ''Children First'' campaign, which focused on this problem and also managed to raise half a million dollars to benefit local kids. The Detroit Free Press continues with ongoing coverage assisted by a panel of young people.

The Charlotte Observer determined that violence and discipline were the public's chief concerns about local public schools and developed a five-week series on those topics.

The Akron Beacon-Journal won a Pulitzer Prize for its five-part project, ''A Question of Race.'' The newspaper convened focus groups; it analyzed the continuing social and economic disparities between blacks and whites; it invited local organizations to establish projects addressing race relations; it hired experts to coordinate the resulting plans. In the end, 22,000 Akronites responded to a newspaper coupon that invited them to join the fight against racism.

You will observe that such media capitals as New York, Washington, Philadelphia and Los Angeles are notable by their absence in this little sampling of public journalism in its experimental stages.

The reason is simple. Getting involved in things, as public journalism demands, is anathema to many journalists who grew up—as I did—in the belief that journalism and its practitioners must operate as a breed apart. In the words of Professor Jay Rosen of New York University, a godfather of the concept of public journalism: ''Traditionally journalists worry about getting the separations right: the separations between themselves and the political community; between news and editorial; between facts and values; between information and their beliefs.'' Professor Rosen then makes this radical point: ''The challenge . . . is how to get the connections right, because the connections are what's faltering.''

To many journalists, this concept of connecting, and getting involved, is an act of heresy—so wedded are they to the idea of detachment and uninvolvement and even an unconcern about the consequences of what they write or report. This chilly remove is what Fred Friendly calls the Werner von Braun theory of journalistic responsibility: ''I just shoot the rockets up into the air; where they come down is not my concern.''

Many journalists insist that detachment gives them credibility—but the sad fact is that they enjoy very little credibility as it is, ranking way down there is public trust with the used-car salesmen. A recent Times-Mirror poll found that 71 per cent of the American people think that journalism, instead of helping solve the nation's problems, gets in the way of finding solutions.

Time, I think, for us journalists to change our ways—not by becoming advocates of particular policies but by helping the public gain confidence in its own ability to reach consensus and solve problems. It's time for journalism to abandon cynicism, to uncurl its lip and to become a fair-minded participant and catalyst in America's decision-making process. It's time for journalism to help public life work better.

Here's one way.

When municipal elections take place next Fall, a project called City Vote will simultaneously hold presidential primaries in fifteen or twenty cities. The object is to force the candidates to address urban issues at the very beginning of the presidential campaign. It's an ideal opportunity for journalists in Boston, Houston, Spokane, Minneapolis, St. Paul, Baltimore and other participating cities to facilities the discussion, and to force candidates to address the issues that matter to the voters. A fine opportunity for publishers and editors to sponsor public forums, to open their pages to debate to nudge the public dialogue along.

The kind of involvement I am thinking about has to do with exploration and inspiration. It calls to mind a favorite prose poem.

As I recite this little piece by Christopher Logue, think of it as a conversation between the new journalist and his public. It's an exchange that suggests how, by getting involved ourselves, we might begin to inspire others to get involved. It also suggests how my long romance with journalism might ultimately be restored.

Come to the edge.
It is too high . . .
Come to the edge!
We will fall . . .
COME TO THE EDGE!!!
. . . and they came
. . . and he pushed
. . . and they flew.●

ORDERS FOR TOMORROW

Mr. HATCH. Mr. President I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m., on Friday, February 3, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak for not more than 5 minutes each, with the following Senators permitted to speak for up to the designated times: Senator BOND for 10 minutes, and Senator HUTCHISON for 10 minutes.

I further ask consent that at the hour of 10 a.m., the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. HATCH. Mr. President, if there is no other business to come before the Senate, and no other Senator is seeking recognition, I now ask consent that the Senate now stand in recess under the previous order.

There being no objection, the Senate, at 6:08 p.m., recessed until tomorrow, Friday, February 3, 1995, at 9:30 a.m.