SENATE—*Wednesday, June 10, 1992*

(Legislative day of Thursday, March 26, 1992)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

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

Let us remember in silence with gratitude the recovery of Senator HELMS. And let us pray for officer Tom Volario, who today will have a quadruple bypass.

** * *he that is greatest among you shall be your servant.*—Matthew 23.11.

Gracious God our Father, we never cease to be grateful for the many dedicated servants without whom the Senate could not function. Thank You for office and committee staffs, for the officers of the Senate and their staffs, for those who record and maintain records, for the pages and the interns, for those who prepare and serve food, for those who maintain buildings and grounds, for uniformed officers and plain clothesmen, for those who maintain order at the doors and on the floor.

Thank You, Father, for the dedication and high morale of these faithful men and women. We ask Your blessing upon each of them and their loved ones. For those who may be ill or experiencing some kind of difficulty, we pray for Your gracious intervention in their lives, that whatever their need, it will be met, and that they will be recipients of Your abundant love and grace. Thank You, Father, for these committed, conscientious servants who make it possible for the Senators to fulfill their responsibilities as the servants of the people in their States.

We pray this in the name of the Servant of servants. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 10, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

Senators should note the first hour will be equally divided and controlled between the Senator from South Carolina [Mr. THURMOND] and the Senator from Illinois [Mr. SIMON].

The Senator from Vermont is recognized.

THE ENVIRONMENT

Mr. JEFFORDS. Mr. President, when I asked the distinguished minority leader to reserve 20 minutes on my behalf to speak this morning, I was unaware of the events that were to transpire over the past few days with respect to the environment. I had originally intended to focus on only one subject, a national deposit law, but I would like to expand my remarks to discuss the environment in broader terms and also to expand on my remarks of March 21.

This Congress will soon come to an end. There is not a great deal of time left, yet much remains to be done. A great deal has been said about whether or not the President has been an environmental President. But, by no means can we claim to be an environmental Congress. For example, much has been said about lead poisoning, about global warming, about recycling, yet no concrete proposals have been passed. As I mentioned in March, there has been a lead bill on the calender for nearly a year, yet it has not been brought to the floor. How many more children will be lead poisoned while the country waits for action?

What about the issue of global warming. One of the main goals of the Rio Conference was to address the potential for global climate change. In the game partisan politics, a lot of fingers are going to be pointed at the President as the one to blame. But, let's fess up here. In this body, it seems every call for action on global warming is met with global whining. Before any of us criticize another for inaction, let us act.

I do not know beyond any shadow of doubt whether or not global warming will or will not occur. No one does. Our knowledge of the planet is too limited to know for sure. But, neither do I know how much exposure to a carcinogen it takes to cause cancer nor do my colleagues, yet I try to limit my exposure to these substances as I am sure many of my colleagues do as well.

In addition, we did not know whether or not the former Government of the Soviet Union would attack the United States, yet we spent billions and billions of dollars on weapons to insure that they would not. In the process, many Americans from the scientists involved in making the bomb to the Utah downwinders were exposed to lethal doses of radiation, and large parts of this country were contaminated. We spent billions of taxpayer dollars that we did not have on a strategy of mutually assured destruction. Given the shape of the Russian economy and the size of our deficit, I would suggest that this strategy lived up to its name.

The point is that we have acted to protect our constituents, even when the risks were only possibilities. What is so different about global warming? Why do the opponents counter our concerns about global warming with their global whining? I think the answer is probably human nature, taking the path of least resistance, and to some extent, self-interest.

I noted in remarks made upon introduction of a bill to reauthorize the Clean Water Act, S. 1081, some of the beliefs of those involved in environmental protection 100 years ago. Then, scientists involved in water and waste water treatment faced debates not unlike our own on global warming. For example, in one paper from 1882, a chemist was talking about the presence of germs in sewage, that germs can cause disease, and that their profession needed to protect people from such germs.

To these remarks, another professional strongly disagreed saying, "No such thing as a typhoid germ had been discovered. One could no more analyze a water for a germ of typhoid, that one could analyze the brain for an idea. Not only, however, did the author speak of germs as though they were tangible, but he had fixed the conditions of the life of a thing the very existence of which had never been proven." Ten

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

years later, in the decade of the 1890's, 1 in every 35 people in the United States contracted typhoid. Then, the importance of waste water treatment and water treatment and those germs became apparant. Then, action was taken.

Do we have to adopt a "no pain, no gain" response to our environmental problems? Must there be widespread pain and suffering for us to act? What are we waiting for? Well, opponents of action will say it's too expensive to act, it is a Third World plot against us, and so on and so on. But, it is not too expensive. There are many, many ways we could begin to address global warming. And, none of these initiatives are that complex or that expensive.

Earlier this year, I offered an amendment to help solve three of the problems facing this country: our energy dependence, our imbalance of trade, and our increasing emissions of greenhouse gases. This amendment would have begun the replacement of foreign energy sources with domestic alternatives. My opponents went on about how it would raise energy costs to $200 a barrel. What was the real cost, about 2 cents a gallon. The cost of gasoline goes up more than that anytime anyone sneezes in the Middle East. And a lot worse than sneezing can easily happen at anytime in the Middle East. What happens to energy prices when more people get the bomb?

Soon, we will debate two issues: the balanced budget amendment and the energy bill. In the former issue, I predict great speeches about our need for fiscal responsibility, and about how we can take charge and control the deficit without the need for this amendment. Then, when the energy bill comes up, I predict the proposal of more tax subsidies, further decreasing our revenues behind the guise of energy independence. The net result is we will get deeper in debt and more dependent on foreign oil.

Why are we so afraid of making a direct statement and saying that the President shall take whatever action is necessary to ensure that our country is never more dependent on foreign energy sources than on domestic energy sources. Period. No subsidies, no fancy tax loopholes, just a firm statement of our support for energy independence. Just something Americans can actually point to with pride and say, "yes, my Government does care about the future of my family."

It was my original intent today to discuss a national bottle bill. A national deposit law is yet another low cost means to solve a number of problems while putting Americans to work. It would reduce greenhouse gas emissions, it would reduce our need for new landfills, it would foster and support state and local recycling programs. It is a commonsense, proven proposal that 70 percent of Americans support. I urge my colleagues to look beyond the special interests and into the facts.

Let me add for the benefit of the younger staff members, that a national deposit law is not some complex, draconian recycling proposal. Your parents used to do this all the time, and I doubt if you ask your parents or your older colleagues that any of these individuals will tell you that this proposal caused any hardship.

So what is a bottle bill? It is merely a national program to place a refundable, and let me stress refundable, deposit on beverage containers. When a consumer buys a soft drink or a beer, the consumer would pay 10 cents per container. Then, when the consumer returns the container, the consumer gets all of his or her money back. In States which have a bottle bill, over 90 percent recovery of the containers have been achieved. That is quite an impressive recycling record.

Which States would this proposal be applicable to? States which do not achieve a 70-percent recovery rate for beverage containers within 3 years. But, as a compromise, if a State reaches a 60-percent recovery rate within 3 years, these States would have an additional 2 years to meet the goal.

The proposal is very flexible in this regard. Any State may opt out by using any method they want to reach the 70-percent goal. You will hear lots of rhetoric about curbside programs. Nothing in this proposal interferes with curbside recycling in any way. Let me make that clear. Whoever tells you that this bill interferes with curbside recycling is either misinformed or lying. If a State can achieve the 70-percent goal, a State need do nothing more. We are not asking for 90 percent or even 80 percent which nearly every bottle bill State has achieved. We are cutting States some slack. We are being flexible.

Now, you may ask, why all the fuss over beverage containers? It is simple, this country uses over 120 billion, yes that is right, 120 billion with a "b" beverage containers every year. Most of these go right into the trash and from there to the landfill or incinerator. This is criminal. We have the power to put an end to this terrible waste, and we should.

Deposit legislation improves recycling efficiency. Industry has bragged about how well they are doing overall with beverage container recycling. They are doing so well because of the bottle bill States. Let us compare numbers. On average, 80 percent of cans get recycled in deposit States; only 48 percent in nondeposit States. Forty percent of glass gets recycled in deposit States; only 4 percent in nondeposit States. Here is an even more impressive number: 67 percent of plastic gets recycled in deposit States; only 6 percent gets recycled in nondeposit States. The 10 deposit States account for over 45 percent of all recycling.

The bottle bill complements curbside recycling efforts. This is one I expect we will debate a bit when the bill comes to the floor. In the 1970's, bottlers said deposit laws cost jobs. We have proven that false. In the 1980's, they said deposit laws were unsanitary. We have proven that false. Now they say it hurts curbside programs. Well, Seattle found that to be false. Deposit legislation would have saved Seattle between $240,000 and $632,000.

Cincinnati found that a deposit law combined with their curbside recycling program would lower the cost of the recycling program from $94 a ton to $73 a ton and result in an additional 6,000-ton reduction in solid waste volume every year.

The General Accounting Office even concluded that deposit legislation was compatible with curbside programs. Last, California found deposit legislation entirely compatible with curbside programs and concluded: "* * * the positive effect of the beverage container recycling program on curbside recycling was evident by the average overall 37-percent increase in volume of aluminum recycled and a 224-percent increase in revenue." Nine of ten States with deposit legislation have curbside programs. How many times do we have to show that deposit legislation is not incompatible with curbside and in fact improves upon curbside programs?

Deposit legislation reduces litter. In Michigan, two studies found that beverage container roadside litter dropped 85 percent. And litter is more than unsightly. In Massachusetts, glass related injuries to children dropped 60 percent. This amendment will protect children. Concerned about farmers? Beverage containers are estimated to cause losses of over $2 billion annually to farmers. This hazardous litter injures farm animals and machinery.

Deposit legislation reduces pollution and saves energy. A national deposit law would reduce beverage container waste by 83 percent by weight, and keep an addition 4.7 million tons of beverage containers out of landfills and incinerators. The energy saved by recycling would be equal to 23 million barrels of oil a year.

Deposit legislation reduces costs to government. This is one I really like. The New York Beer Wholesalers projected that the State would save $50 million in litter pickup costs and $19 million in solid waste disposal costs. A similar study in Michigan showed savings of $18 million in solid waste management costs. Bottlers have convinced some recycling programs that deposit legislation would be bad for their program because it would remove some cans from the program. The recycling programs would thus lose the value of the metal. What they neglect to say is that not everyone will take their cans back, some will still show up in

curbside, only now those cans will be worth a dime, not a fraction of a penny. Furthermore, recycling collection costs will drop because high volume plastics will be removed from the waste stream.

Deposit legislation creates jobs. The facts are clear. California's program created 3,411 new jobs. Oregon's employment increased by 365 jobs. GAO estimates that Michigan created about 5,000 new jobs. Maine gained 626 jobs, while my State created about 400 jobs. Last, New York created about 4,000 new jobs.

Now the bottlers will say deposit laws cost jobs, in glass, for instance. The decline in glass jobs, however, has been due to the rise in aluminum use, not deposit legislation. Furthermore, in my State and others we have seen an increase in the use of refillable glass bottles. No wonder aluminum does not like deposit laws.

In addition, the unclaimed deposits will go to finance environmental activities in the States. That could be millions and millions of dollars for the environment and recycling programs. I wonder if the bottlers are telling this to recycling coordinators.

Bottlers try to portray this as forced deposits, with a heavy emphasis on forced. No one is required to forfeit 10 cents, all they have to do is take back the container. What is so heavy-handed about that?

Finally, I expect to hear that State legislatures have not enacted this law why should we. GAO found that 70 percent of Americans support deposit legislation. Perhaps we should ask the question of why are not legislators being more responsive to their constituents. I heard that the bottlers have contributed about $4 million in campaign contributions. In votes on deposit legislation, I have found that bottlers outspent citizens by over seven to one. For seven times the money, no wonder big money wins.

Let me read a list of names of the groups that support deposit legislation:

The National Association of Counties, the National League of Cities, The American Medical Association, the Natural Resources Defense Council, the Sierra Club, National Audubon Society, National Wildlife Federation, Wilderness Society, Defenders of Wildlife, American Council on the Environment, Greenpeace, Izaak Walton League of the America, National Grange, American Fisheries Society, American Hiking Society, National Parks and Conservation Association, Fossil Fuels Action, Scenic America, Rails to Trails, Wildlife Society, League of American Wheelmen, U.S. PIRG, Evangelicals for Social Action, Garden Club of America, Trout Unlimited, Environmental Action, Public Citizen, Friends of the Earth, Americans for Democratic Action, and the League of Women Voters of the United States.

Basically on the other side, you have beer and soft drinks. Do we respond to 70 percent of Americans with a proposal with a proven track record, or not?

That is what this amendment is about—it's about showing Americans we stand for them, not for political action committees.

This amendment is a compromise. If a state can achieve a 70-percent recovery rate by any other mechanism, they are free to use that mechanism. Also, if on the effective date, a State has only reached a 60-percent recovery, they get an additional 2 years to try to improve their program to the level of the lowest deposit State, 70 percent.

If we are serious about recycling, this is my colleagues' opportunity to go on record for recycling. If we can't do this; if we can't do what 70 percent of Americans want, what can we do?

Now what does this have to do with global warming? Recycling saves energy. A national deposit law would reduce fossil fuel use by millions and millions of barrels a year. Those Third World countries that some accuse of being in a plot against us somehow can afford to return their bottles. If you've been to those countries, you see people carrying their old bottles back. Yet somehow, some in industry will argue that we cannot afford a national deposit law.

Have we become so rich we cannot afford to do what countries much poorer than us somehow afford? No wonder other countries are frustrated by our lack of effort to reduce the risk of global warming.

I also like the way that no matter what the issue whether it be greenhouse gases or recycling, industry points to a particular product and says, "We're only 2 percent of the problem, et cetera, et cetera." Well we have to start somewhere or we get nowhere. We can reduce solid waste by 5 to 8 percent with this amendment. Also, in language the bottlers will understand, "a little sign here, a little sign there, and pretty soon everyone is drinking Budweiser."

In the very near future, I anticipate that this measure that would spur recycling and help prevent global warming will come before the Senate. I urge my colleagues and their staffs to learn the facts about a national bottle bill. I thank the Chair, and I yield the floor.

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

BALANCED BUDGET AMENDMENT

Mr. GRASSLEY. Mr. President, I am pleased today to join my colleagues in calling for the adoption of a balanced budget amendment to the Constitution. If we are ever to get our fiscal house in order, it is necessary to pass such an amendment. Statutory means have not worked, and I do not believe they will work. With each attempt that we have made to control the deficit, it has only increased. Only the requirement of a constitutional amendment will force Congress to enact a balanced budget.

As an Iowan from Council Bluffs recently wrote to me:

We simply cannot continue to spend $4 for every $3 of income which thereby increases the national debt by $365 to $400 billion per year. Our children and our grandchildren simply cannot expect to be able to shoulder such debt in the future.

That is what my constituents generally believe, and I thank that person from Council Bluffs for expressing that view to me.

Without a balanced budget amendment, our children and grandchildren will pay for this generation's chronic inability to live within its means. In the absence of an amendment, the standard of living of future generations will likely decline. The fears of many Americans that the next generation will not live as well as this one are in many respects traceable to decades of fiscal irresponsibility on the part of the Congress.

This constitutional amendment is in the long-term interests of the United States. We need only look at who opposes it to prove its value. All those groups that want short-term special interest privileges from the Federal Government oppose this amendment.

This amendment represents a challenge to that whole school of thought and, instead, restores the vision of the Framers to secure the blessings of liberty to ourselves and our posterity. Indeed, unless we can restore financial soundness to our budgetary affairs, in time we will become unable to achieve any national fiscal goals.

The opponents of this amendment think that all political wisdom originates here on Capitol Hill and disappears without a trace outside the beltway. They know that overwhelming numbers of Americans want this amendment, and they know if we can kill it here the people will never get the chance to ratify it in their respective State legislatures. We should not be afraid of the people. We should pass this amendment and give the people the chance to ratify it. Once again, they have shown more wisdom than we here in Washington have in the past.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes Senator THURMOND.

Mr. THURMOND. Mr. President, the House of Representatives is scheduled to begin consideration today of a proposed constitutional amendment mandating a balanced Federal budget.

It is highly appropriate for the Congress to consider this measure and send it to the States for ratification. The American people have become hostage to the spending habits of a Congress which must be controlled.

As of June 1, 1992, the Federal debt reached $3.9 trillion and the deficit is projected to grow this year to $399 bil-

lion. These numbers are particularly compelling when I recall that there was a $3.9 billion surplus during my second year in the Senate in 1956. In the past 30 years, I have supported and sponsored a balanced budget amendment to force the Congress to follow a commonsense rule of fiscal responsibility.

Mr. President, the essence of the proposed constitutional amendments in the House and Senate requires that Federal outlays not exceed receipts during any fiscal year. Also, the Congress would be allowed by a three-fifths vote to adopt a specific level of deficit spending. Further, the Congress could waive the amendment when the United States is engaged in military conflict threatening our national security. An additional important provision of this proposal requires approval under a rollcall vote by a majority of both Houses before any bill to increase revenue becomes law.

Federal spending continues to eclipse receipts of the Government and this will only exacerbate the deficit problem. According to the Office of Management and Budget, the Federal Government spends $3 for every $2 it receives. In the past, Congress has agreed to well-intentioned plans to reduce the deficit. However, these legislative proposals have been revised and delayed, thus depriving the American people of a true balanced budget. A balanced budget amendment as part of the Constitution will mandate the Congress to adhere to a responsible fiscal policy.

There are some who oppose a balanced budget amendment suggesting that congressional restraint in spending is the proper course to reduce the deficit. I agree that it is a proper course, but it has proven to be a course which the Congress has refused to follow. Despite innovative legislating, Congress has not shown fidelity to any self-imposed restraint or discipline when it comes to spending the dollars of the American taxpayer.

Mr. President, fortunately the millions and millions of Americans who demand that Congress get its fiscal house in order are now being heard. The American people understand that today's deficits will force an incredible tax burden on future generations. The insatiable appetite of congressional spending is mortgaging the future of generations yet unborn. This is a terrible injustice we are imposing on America's future and it has been appropriately referred to as fiscal child abuse.

It is time the Congress show accountability for appropriating the hard-earned dollars of the American taxpayer. It is time we show fiscal discipline and adopt a balanced budget amendment.

Mr. President, I am pleased that the House of Representatives begins debate on a balanced budget amendment today. Supporters in the House and Senate share an unyielding commitment to restoring sanity to a spending process which is out of control and hurling our Nation headlong toward economic disaster.

It is my hope that the House will quickly adopt this proposal so the Senate may act and send a balanced budget amendment to the States for ratification. it is incumbent upon this Congress to reverse the fiscal course of the Federal Government, and I firmly believe that a constitutional amendment is the best way to do it. I urge my colleagues to support this amendment when it comes before the Senate.

Mr. President, I ask unanimous consent that a copy of a letter from President Bush to the House minority leader, BOB MICHEL, be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, June 9, 1992.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR BOB: Three years ago, in my first address to the Congress as President, I urged adoption of a balanced budget amendment to the Constitution. This is an amendment that many have sought for a long time. It is not radical. It rests on common sense. It would bring to the Federal Government the fiscal discipline that forty-four States have applied to themselves. Now, at last, there is a realistic opportunity to move this needed proposal forward.

The House will vote on the balanced budget constitutional amendment this week. This vote will bear directly on the quality of Americans' lives for generations to come.

I strongly support the Barton-Tauzin amendment. This amendment would prevent the debt limit or taxes from being raised without the consent of three-fifths of both Houses of Congress. If the Barton amendment fails to gain a two-thirds majority, I will also support the Stenholm-Smith-Carper-Snowe amendment. The Stenholm amendment requires that three-fifths of both Houses of Congress must vote to approve any increase in the limit on the Federal debt held by the public.

The issue of overriding importance is whether we can secure a balanced budget constitutional amendment. This issue is not partisan, it is moral. What is at stake is the future economic security of the American people.

Throughout the history of this great Nation, amendments to the Constitution have been adopted when needed to protect fundamental rights that ordinary political processes may not adequately respect. The Bill of Rights is the earliest and best-known example. A balanced budget constitutional amendment is both necessary and appropriate to protect the interests of a group of Americans who are not yet able to represent themselves: the citizens of future generations.

I urge the Congress to adopt promptly a balance budget constitutional amendment.

Sincerely,

GEORGE BUSH.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, I thank Senator THURMOND for his leadership in this area which has been for so long. I am very grateful to him.

Mr. President, I understand 30 minutes is under the control of this side and 30 minutes under the control of the other side.

I yield 5 minutes to the Senator from Alabama.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. President, I rise today to support my colleagues in support of a proposed constitutional amendment which would require the Federal Government to operate under a balanced budget. This is the fourth time I have spoken on behalf of this proposed amendment, but I do so again in support of my colleague and friend Senator PAUL SIMON because of my sincere belief in the goal which both he and I are seeking—fiscal sanity with regard to the Federal budget.

A great deal is being said during this election year about whether or not Washington is responsive to the will of the people or whether it has become so ensnarled by special interests that it can no longer legislate on behalf of the well-being of the entire Nation.

The gravity of the current situation can clearly be seen by looking at the enormous deficits that we have been running over the last two decades and which, alarmingly, show absolutely no sign of abating. Quite simply put—how much longer can we continue to run hundred-billion-dollar deficits without causing this Nation to collapse?

I believe that it is this frightening scenario that has captured the attention of the American public which is sending Washington in very clear and strong signals its discontent as well as outright contempt for the way we conduct our business on the national level. We have been elected to lead and the time for leadership is now.

Most of the criticism that I have read recently centers on concerns that such an amendment places fiscal policy in a straight jacket and upsets the balance of power within Congress and between Congress, the executive and the judicial branches of Government.

These two issues are legitimate points of discussion, but the real point to be remembered is that the Nation's budget deficits are simply out of control and a drastic dose of constitutional medicine must be taken to restore this Nation's health.

The amendment that Senator PAUL SIMON has offered and which I strongly support, would require that total Federal spending must not exceed total receipts. Our constitutional amendment would require a three-fifths vote of the entire membership of both the House

and the Senate to override this requirement. Further, the President would be required as leader of our Nation to submit to the Congress a balanced budget for each fiscal year and a majority of the entire membership of both the House and the Senate would be required to raise taxes. Finally, Congress would have the authority to waive the requirement that the budget be balanced in the event of a declared war or an imminent and serious threat to national security.

The simple truth is that this great Nation can no longer tolerate runaway deficits and the exorbitant annual interest payments which may reach $315 billion in fiscal year 1993 on the $4 trillion national debt.

Our Nation must recognize that the adoption of such an amendment will require that tough decisions will have to be made by the President and the Congress in order to get its fiscal house under control—spending will be cut, taxes may be raised and certainly we will have to set national priorities more clearly and deliberately as we learn to live within our means.

I believe in the faith and good will of the American public. It is time to enact this proposal and send it to the State legislatures for debate, consideration, and ratification.

Mr. NICKLES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Oklahoma [Mr. NICKLES].

Mr. NICKLES. Mr. President, Senator THURMOND asked me to manage the time on this side. I yield myself 4 minutes.

Mr. President, I come to the floor of the Senate today in strong support of a constitutional amendment to make us balance the budget. I say "make us," because I think that is important.

I wish to compliment the House of Representatives for defeating a camouflaged effort of the balanced budget amendment yesterday. I hope and pray that the House will be successful for the first time in its history in passing a constitutional amendment to make us balanced the budget.

We passed one in the Senate. We passed it in 1982. We tried again in 1986, and we were one vote short. I hope 1992 will be the year in history where both the House and Senate pass this amendment by the necessary two-thirds and send it out to the States for its ratification.

Mr. President, as my colleagues mentioned, we are facing a crisis, fiscal crisis. We are facing a debt problem which we cannot really afford. We have a debt now, or we will be crossing the threshold of a national debt this year, of $4 trillion. That is the equivalent of about $16,000 for every man, woman, and child in the United States.

It is a problem, in my opinion, because Congress has not been willing or able to show the discipline to contain the growth of Federal spending. Federal spending has exploded. In 1960, we spent less than $100 billion. In 1970, that figure almost doubled, a little less than $200 billion. In 1980, we spent a little less than $600 billion; and by 1990, that figure had doubled again, to $1.25 trillion. And in 1993, we are looking at spending $1.5 trillion.

So spending has continued to explode. Just this year, the deficit has continued to increase. Why? Revenues this year have grown at 2.4 percent through March, but expenditures have grown at 8.8 percent. Spending is rising at two and three times the rate of growth of revenues. That is the reason we need this constitutional amendment. We need to state emphatically in our Constitution that we will not spend more than we are taking in. Revenues have been growing, every year. It is just that the rate of growth of spending is much, much greater.

Mr. President, I have some historical data to share. This detail I will submit for the RECORD, and it contains data for 1981 through 1991, and estimated 1992. It shows that expenditures are the problem. It shows not only outlays and revenues, but also the breakdown between domestic and international and defense. This data will show you that the problem really has been on the spending side of the equation, and we need to get the spending side of the equation under control.

I will also submit for the RECORD a list of rapidly growing programs, such as defense, international, mandatory, food stamps, domestic, Social Security, interest, farm price supports, retirement, all of the major programs, people can see where the spending has grown in the last 10 years. I think that would be helpful.

I ask unanimous consent that the material I am referring to be printed in the RECORD at this point.

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

Earned Income Tax Credit:	
1991	11.4
1992	46.9
Medicaid:	
1991	27.7
1992	30.3
Unemployment Compensation:	
1991	43.4
1992	55.0
Food Stamps:	
1991	24.7
1992	18.7
Medicare:	
1991	6/3
1992	12/3
Family Support (AFDC):	
1991	10.7
1992	11.9

MONTHLY TREASURY STATEMENT ANALYSIS

	Receipts	Cumulative	Outlays	Cumulative	Deficit (surplus)	Cumulative
Fiscal year 1991:						
October	76,986	76,986	108,350	108,350	31,364	31,364
November	70,507	147,493	118,230	226,580	47,723	79,087
December	101,900	249,393	109,287	335,867	7,387	86,474
January	100,713	350,106	99,062	434,929	(1,650)	84,824
February	67,657	417,763	93,848	528,777	26,191	111,015
March	64,805	482,568	105,978	634,755	41,173	152,188
April	140,380	622,948	110,371	745,126	(30,009)	122,179
May	63,560	686,508	116,926	862,052	53,367	175,546
June	103,389	789,897	105,968	968,020	2,579	178,125
July	78,593	868,490	119,424	1,087,444	40,831	218,956
August	76,426	944,916	120,075	1,207,519	43,649	262,605
September	109,345		116,232		6,887	
Fiscal year 1991 total		1,054,260		1,323,752		269,492
Fiscal year 1992:						
October	78,068	78,068	114,082	114,082	36,014	36,014
November	73,194	151,262	117,748	231,830	44,555	80,569
December	103,662	254,924	106,199	338,029	2,537	83,106
January	104,091	359,015	119,742	457,771	15,650	98,756
February	62,056	421,071	110,817	568,588	48,761	147,517
March	72,917	493,989	122,279	690,867	49,362	196,878
April						
May						
June						
July						
August						
September						
Total						
Fiscal year 1992 compared to fiscal year 1991 (Percent):						
October	1.4	1.4	5.3	5.3	14.8	14.8
November	3.8	2.6	−.4	2.3	−6.6	1.9

MONTHLY TREASURY STATEMENT ANALYSIS—Continued

	Receipts	Cumulative	Outlays	Cumulative	Deficit (surplus)	Cumulative
December	1.7	2.2	−2.8	.6	−65.7	−3.9
January	3.4	2.5	20.9	5.3	1048.5	16.4
February	−8.3	.8	18.1	7.5	86.2	32.9
March	12.5	2.4	15.4	8.8	19.9	29.4
April						
May						
June						
July						
August						
September						

HISTORICAL AND PROJECTED BUDGET DATA

[In billions of nominal dollars]

	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	Estimate 1992
Budget actuals:												
Individual taxes	286	298	289	298	335	349	393	401	446	467	468	477
Corporate taxes	61	49	37	57	61	63	84	94	103	94	98	91
Social insurance taxes	183	202	209	239	265	284	303	334	359	380	396	416
Other receipts	70	69	66	72	73	73	74	79	82	91	92	98
Revenues	599	618	601	667	734	769	854	909	991	1,031	1,054	1,083
Defense	158	186	210	228	253	274	283	291	304	300	317	313
International	14	13	14	16	17	18	15	16	17	19	20	20
Domestic	137	127	130	135	146	148	147	158	169	183	196	215
Total discretionary	308	326	354	380	416	439	445	465	490	502	532	548
Social Security	138	154	169	176	186	197	205	217	230	247	267	285
Medicaid	17	17	19	20	23	25	27	31	35	41	53	68
Medicare	41	49	56	61	70	74	80	86	94	107	114	128
Unemployment	18	22	30	17	16	16	16	14	14	17	25	39
Other	126	130	139	132	155	148	142	148	154	154	177	190
Total, mandatory	341	373	412	406	450	460	470	494	527	567	636	710
Offsetting receipts	(38)	(36)	(45)	(44)	(47)	(46)	(53)	(57)	(64)	(58)	(108)	(69)
Deposit insurance	(1)	(2)	(1)	(1)	(2)	2	3	10	22	58	66	65
Net interest	69	85	90	111	130	136	139	152	169	184	196	201
Outlays	678	746	808	852	946	990	1,004	1,064	1,144	1,252	1,323	1,455
Deficit	(79)	(128)	(208)	(185)	(212)	(221)	(150)	(155)	(154)	(221)	(269)	(368)

Source: Congressional Budget Office.

HISTORICAL AND PROJECTED BUDGET DATA

	1981–82	1982–83	1983–84	1984–85	1985–86	1986–87	1987–88	1988–89	1989–90	1990–91	1991–92
Annual change in percent:											
Individual taxes	4	−3	3	12	4	12	2	11	5	0	2
Corporate taxes	−19	−25	54	8	3	33	12	10	−9	5	−7
Social insurance taxes	10	4	15	11	7	7	10	8	6	4	5
Other receipts	0	−5	9	2	0	2	7	4	10	2	7
Revenues	3	−3	11	10	5	11	6	9	4	2	3
Defense	18	13	9	11	8	3	3	5	−1	6	−1
International	−5	5	20	7	2	−14	3	6	15	2	3
Domestic	−7	2	4	8	1	0	8	7	8	7	10
Total	6	8	7	10	5	1	5	5	2	6	3
Social Security	12	9	5	6	5	4	6	6	7	8	7
Medicaid	4	9	6	13	10	10	11	13	19	28	30
Medicare	19	13	10	14	6	8	7	10	14	6	12
Unemployment	22	33	−43	−7	2	−4	−12	2	23	47	55
Other	3	7	−5	−18	−5	−4	4	4	0	15	7
Total	9	10	−1	11	2	2	5	7	7	12	12
Net Interest	24	6	24	17	5	2	9	11	9	7	2
Outlays	10	8	5	11	5	1	6	8	9	6	10
Deficit	62	62	−11	15	4	−32	4	−1	44	22	37

Source: Congressional Budget Office.

FEDERAL SPENDING CATEGORIES

[Dollar amounts in billions of nominal dollars]

Year	Outlays	Growth	Percent growth
Mandatory (except Social Security):			
1980	$174.4		
1981	202.7	$28.3	16.2
1982	218.8	16.1	7.9
1983	243.1	24.3	11.1
1984	230.2	(12.9)	−5.3
1985	263.6	33.4	14.5
1986	263.2	(.4)	−.2
1987	265.1	1.9	.7
1988	277.4	12.3	4.6
1989	296.8	19.4	7.0
1990	320.0	23.2	7.8
1991	369.2	49.2	15.4
1992	425.4	56.2	15.2
International:			
1980	12.8		

FEDERAL SPENDING CATEGORIES—Continued

[Dollar amounts in billions of nominal dollars]

Year	Outlays	Growth	Percent growth
1981	13.6	.8	6.2
1982	12.9	(.7)	−5.1
1983	13.6	.7	5.4
1984	16.3	2.7	19.9
1985	17.4	1.1	6.7
1986	17.7	.3	1.7
1987	15.2	(2.5)	−14.1
1988	15.7	.5	3.3
1989	16.6	.9	5.7
1990	19.1	2.5	15.1
1991	19.5	.4	2.1
1992	20.0	.5	2.6
Social Security:			
1980	117.1		
1981	137.9	20.8	17.8
1982	153.9	16.0	11.6

FEDERAL SPENDING CATEGORIES—Continued

[Dollar amounts in billions of nominal dollars]

Year	Outlays	Growth	Percent growth
1983	168.5	14.6	9.5
1984	176.1	7.6	4.5
1985	186.4	10.3	5.8
1986	196.5	10.1	5.4
1987	205.1	8.6	4.4
1988	216.8	11.7	5.7
1989	230.4	13.6	6.3
1990	246.5	16.1	7.0
1991	266.7	20.2	8.2
1992	284.5	17.8	6.7
Domestic:			
1980	129.1		
1981	136.5	7.4	5.7
1982	127.4	(9.1)	−6.7
1983	130.0	2.6	2.0
1984	135.3	5.3	4.1

FEDERAL SPENDING CATEGORIES—Continued

[Dollar amounts in billions of nominal dollars]

Year	Outlays	Growth	Percent growth
1985	145.7	10.4	7.7
1986	147.5	1.8	1.2
1987	147.2	(.3)	−.2
1988	158.4	11.2	7.6
1989	169.0	10.6	6.7
1990	182.5	13.5	8.0
1991	195.7	13.2	7.2
1992	215.0	19.3	9.9
Defense:			
1980	134.6	.....	.....
1981	158.0	23.4	17.4
1982	185.9	27.9	17.7
1983	209.9	24.0	12.9
1984	228.0	18.1	8.6
1985	253.1	25.1	11.0
1986	273.8	20.7	8.2
1987	282.5	8.7	3.2
1988	290.9	8.4	3.0
1989	304.0	13.1	4.5
1990	300.1	(3.9)	−1.3
1991	317.0	16.9	5.6
1992	313.0	(4.0)	−1.3
Net Interest:			
1980	52.5	.....	.....
1981	68.8	16.3	31.0
1982	85.0	16.2	23.5
1983	89.8	4.8	5.6
1984	111.1	21.3	23.7
1985	129.5	18.4	16.6
1986	136.0	6.5	5.0
1987	138.7	2.7	2.0
1988	151.8	13.1	9.4
1989	169.2	17.4	11.5
1990	183.8	14.6	8.6
1991	196.3	12.5	6.8
1992	201.0	4.7	2.4
Earned income tax credit:			
1980	1.3	.....	.....
1981	1.3	.....	.....
1982	1.2	(.1)	−7.7
1983	1.2	.....	.....
1984	1.2	.....	.....
1985	1.1	(.1)	−8.3
1986	1.4	.3	27.3
1987	1.4	.....	.....
1988	2.7	1.3	92.9
1989	4.0	1.3	48.1
1990	4.4	.4	10.0
1991	4.9	.5	11.4
1992	7.2	2.3	46.9
Unemployment compensation:			
1980	16.9	.....	.....
1981	18.3	1.4	8.3
1982	22.3	4.0	21.9
1983	29.7	7.4	33.2
1984	17.0	(12.7)	−42.8
1985	15.8	(1.2)	−7.1
1986	16.1	.3	1.9
1987	15.5	(.6)	−3.7
1988	13.6	(1.9)	−12.3
1989	13.9	.3	2.2
1990	17.5	3.6	25.9
1991	25.1	7.6	43.4
1992	38.9	13.8	55.0
Medicare:			
1980	34.0	.....	.....
1981	41.3	7.3	21.5
1982	49.2	7.9	19.1
1983	55.5	6.3	12.8
1984	61.0	5.5	9.9
1985	69.7	8.7	14.3
1986	74.2	4.5	6.5
1987	79.9	5.7	7.7
1988	85.7	5.8	7.3
1989	94.3	8.6	10.0
1990	107.4	13.1	13.9
1991	114.2	6.8	6.3
1992	128.3	14.1	12.3
Medicaid:			
1980	14.0	.....	.....
1981	16.8	2.8	20.0
1982	17.4	.6	3.6
1983	19.0	1.6	9.2
1984	20.1	1.1	5.8
1985	22.7	2.6	12.9
1986	25.0	2.3	10.1
1987	27.4	2.4	9.6
1988	30.5	3.1	11.3
1989	34.6	4.1	13.4
1990	41.1	6.5	18.8
1991	52.5	11.4	27.7
1992	68.4	15.9	30.3
Food Stamps:			
1980	9.1	.....	.....
1981	11.3	2.2	24.2
1982	11.0	(.3)	−2.7
1983	11.8	.8	7.3
1984	11.6	(.1)	−.6
1985	11.7	.1	.9
1986	11.6	(.1)	−.9
1987	11.6	.....	.....
1988	12.3	.7	6.0
1989	12.8	.5	4.1
1990	15.0	2.2	17.2
1991	18.7	3.7	24.7
1992	22.2	3.5	18.7
Family support (AFDC):			
1980	7.3	.....	.....
1981	8.2	.9	12.3
1982	8.0	(.2)	−2.4
1983	8.4	.4	5.0
1984	8.9	.5	6.0
1985	9.2	.3	3.4
1986	9.9	.7	7.6
1987	10.5	.6	6.1
1988	10.8	.3	2.9
1989	11.2	.4	3.7
1990	12.2	1.0	8.9
1991	13.5	1.3	10.7
1992	15.1	1.6	11.9
Farm price supports:			
1980	2.8	.....	.....
1981	4.0	1.2	42.9
1982	11.7	7.7	192.5
1983	18.9	7.2	61.5
1984	7.3	(11.6	−61.4
1985	17.7	10.4	142.5
1986	25.8	8.1	45.8
1987	22.4	(3.4)	−13.2
1988	12.2	(10.2)	−45.5
1989	10.6	(1.6	−13.1
1990	6.5	(4.1)	−38.7
1991	10.1	3.6	55.4
1992	11.4	1.3	12.9
Federal retirement and disability:			
1980	26.6	.....	.....
1981	31.2	4.6	17.3
1982	34.3	3.1	9.9
1983	36.5	2.2	6.4
1984	38.0	1.5	4.1
1985	38.5	.5	1.3
1986	41.3	2.8	7.3
1987	43.7	2.4	5.8.
1988	46.8	3.1	7.1
1989	49.1	2.3	4.9
1990	51.9	2.8	5.7
1991	56.0	4.1	7.9
1992	58.7	2.7	4.8
Veterans benefits and services:			
1980	14.0	.....	.....
1981	15.4	1.4	10.0
1982	15.8	.4	2.6
1983	15.9	.1	.6
1984	16.0	.1	.6
1985	15.9	(.1)	−.6
1986	15.7	(.2)	−1.3
1987	15.7	.....	.....
1988	17.6	1.9	12.1
1989	17.7	.1	.6
1990	15.9	(1.8)	−10.2
1991	17.3	1.4	8.8
1992	19.5	2.2	12.7
Other mandatory:			
1980	75.0	.....	.....
1981	86.1	11.1	14.8
1982	82.2	(3.9)	−4.5
1983	82.7	.5	.6
1984	87.1	4.4	5.3
1985	99.8	12.7	14.6
1986	83.5	(16.3)	−16.3
1987	80.7	(2.8)	−3.4
1988	92.0	11.3	14.0
1989	97.7	5.7	6.2
1990	100.0	2.3	2.4
1991	112.9	12.9	12.9
1992	114.4	1.5	1.3

Source: CBO.

Mr. NICKLES. It might be helpful for my colleagues to realize that in the last couple of years some programs have just exploded. Medicaid growth, for example, this year—and these figures are according to CBO, this year—1992, 30 percent; 1991, 27 percent increase; unemployment compensation growth, this year, 55 percent more than last year. Last year 43 percent more than the previous year. Food stamps growth, this year, 1992, 18.7 percent; last year, 1991, 24.7 percent. I could go on and on.

I will submit these items for the RECORD as well. I put this in the RECORD because I want people to see the facts. These are just facts. But it is also a fact that Congress is not able to constrain itself, a good example of which is we just passed the supplemental through the Senate.

The President requested $480 million, and we end up passing a bill of $2 billion. I am pleased the President said he would veto it, and I think he is right to do so. The President requested some extension in unemployment compensation and the House tried to multiply that figure several times, several billion dollars over the President's request.

Again, there seems to be no limit from Congress on the amount of money we spend. I think we need a limit. This amendment is the limit. The constitutional amendment will make us limit spending to the amount of money we take in. I think that it is vitally important that we do so. I think it is important for our country's fiscal health and it is important for future generations so they do not inherit more and more debt.

Mr. President, how much time do we have remaining on our side?

The ACTING PRESIDENT pro tempore. 16½ minutes.

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

Mr. SIMON addressed the Chair.

The ACTING PRESIDENT pro tempore. Senator SIMON is recognized.

Mr. SIMON. I yield myself as much time as I may consume.

Mr. President, on Friday, the General Accounting Office issued a document that, in my opinion, is the most significant document the General Accounting Office has ever issued. I would love to take credit for having requested the information. It was requested by our colleagues, BILL BRADLEY, PETE DOMENICI, and JIM SASSER, and House Members LEON PANETTA and LEE HAMILTON.

What this report spells out in very, very clear language is that we are headed for economic disaster and a significant downturn if we do not get a hold of this thing. And if we do get a hold of it, the future can be very, very bright for this country.

The Comptroller General says:

> Regardless of the approach that is chosen, prompt and meaningful action is essential. In the end, action is unavoidable. The longer it is delayed, the more painful it will be.

I think that is very, very clear. And I am pleased that the Presiding Officer is one of those who has been very forthright in standing up for this.

Let me comment first about some of the groups that are opposing it, and opposing it out of sincerity, because they have been told this is going to cause problems. Some of the groups are for the causes that I have been fighting for on this floor and when I served in the House—education, health care, children's causes, and others.

Take a look at this report on page 61, under what they admit is an optimistic scenario. Discretionary nondefense items—that is, the education, health care, these kinds of things—if we do not do anything, go from 29.3 percent of the budget in 1990 to, in the year

2000, 20.9 percent. In other words, a one-third drop because of a squeeze from interest rates. And as they point out in this report, since they have no way of knowing what interest rates will be, they are assuming that interest rates will not rise, and they confess that is an optimistic scenario.

The reality is that if you are for education, if you are for agricultural programs, if you are for the other things that are important to the future of this country, we are going to have to get a hold of this interest thing. It is hemorrhaging, and without stopping that hemorrhaging, frankly, this country is not going to have good health.

Some of our senior groups have been approached and have been convinced that you have to take a stand against this. It may adversely affect Social Security. What is the real threat to Social Security? Former Social Security Commissioner, Dorcas Hardy, has written a book. In that book, she says that Social Security will be in good health well into the next century but for one cloud, and that cloud is the deficit, because the social security trust funds have been buying U.S. bonds.

They have been getting IOU's from the U.S. Government and those IOU's are going to be helpful only if we have a sound economy.

Let me point out some other things that are in this report. And I know that Members of the Senate get bogged down with all kinds of paperwork, but let me tell you this is a report that is well worth reading. What happens over this next 28-year period, under their optimistic scenario, if we take no action, if we just continue to drift, year 2020, at best, average Americans will be earning $23,000. What if we get a hold of this thing, and by the year 2001 balance the budget? What is going to happen for the future of my children and your children and the Shultz family and many others out there?

By the year 2020, $32,000 per capita income, if we get a hold of it. If we balance the budget by the year 2001 and if by the year 2005 we built in a little 2-percent surplus, it will be $33,000.

Those are practical things that we ought to be paying attention to. The New York Federal Reserve Bank has done a study. They say that the deficit that we have had this past decade has cost us 5 percent in growth in GNP. CBO tell us 1 percent growth in GNP means 650,000 jobs.

We are talking abut the economy of this country. We are talking about a failure to have capital investment in industry because our dollar is overvalued because we have had to appeal to overseas dollars to finance our debt, and so, because of that overvalued dollar, exports have gone down, imports have gone up, and even American industries have been investing overseas.

So, as late as 6 years ago the average American worker, manufacturing worker, was making more than any other manufacturing worker in the world. Six years later, today, 11 countries have higher average manufacturing wages than the United States.

What has happened to the manufacturing base? It has slipped just under 8 percent. We have lost 8 percent of the manufacturing jobs. The service sector jobs have increased by about 32 percent. But this is significant. The average service sector job pay 44 percent as much as the average manufacturing job.

We are slipping. And we have to get a hold of it, and this document spells out what we have to do. Compared to doing nothing, it says on page 12 here, the surplus alternative increases real GNP in 2020 by 39.7 percent. We are not talking abut peanuts here. We are talking about very, very significant items.

Let us turn over to page 48 of this document. During the 1960's the budget deficit absorbed approximately 2 percent of net national savings generated by the private sector and State and local governments. During the 1970's the Federal deficit absorbed 19 percent of the net savings of other sectors. By the 1980's nearly one half, 48 percent of that saving was needed to finance the budget deficit. This trend continues.

In 1990 the deficit absorbed 58 percent of net national savings from the rest of the economy. This is money that cannot be put into industrial development in this country. And we are just decimating this country because of our folly. Where do we go long-term if we do not get a hold of this thing?

Well, we have a gradually increasing number retiring on Social Security, and when you get to the year 2010 all of a sudden that chart goes up like this. And at that point whoever is in the U.S. Senate, 2010—my three colleagues who are here right now, my four colleagues—Senator THURMOND will probably be here in the year 2050, the way he is going—but my colleagues who are here in the year 2010, and whoever is President of the United States, they will have three choices to make, because we are heavily dependent on Social Security trust funds to buy our bonds.

No. 1 choice is at that point to cut back on Social Security retirement. I can tell you, and you can tell me, that really is not a realistic political option. It is not going to happen.

No. 2, we can dramatically increase taxes. We know how popular that would be. That is not going to happen.

No. 3, we can print more money. That is the most dangerous of the three options. That is where we are headed. I remember hearing our colleague, Senator PAT MOYNIHAN, the first person I ever heard on the floor of the Senate saying we are headed in this direction. I do not think there is any question about it. And that is why what the economists call interest rates are near an all-time high for our country, the difference between inflation and the long-term interest rates. It is because there is a growing fear around the world in financial markets that we will eventually monetize the debt.

We have to get a hold of this thing. This is not going to be easy. Those critics who say this is the painless way for Congress to do this, I think all of us who vote for this understand when we vote for this we are committing ourselves to some painful answers. But the alternative is infinitely more pain. This deficit is like a cancer. The sooner you have the operation, the better off you are going to be. Postpone it, and the cancer grows. In 1986 was the last time the U.S. Senate voted on this. We heard every argument we are hearing right now in 1986: "Oh, we can solve this. We do not need a balanced budget amendment, we just need the courage and the will."

Of course, that is right. In 1986 we had a $2 trillion indebtedness. Here we are 6 years later on the verge of a $4 trillion indebtedness. We have to face up to this, Mr. President. We are talking about the future of our country and I hope we have the courage to do what is right.

I yield the floor, Mr. President.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. I yield 4 minutes to the distinguished Senator from Alaska.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Alaska [Mr. MURKOWSKI] for 4 minutes.

Mr. MURKOWSKI. I thank the Chair.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. MURKOWSKI. Mr. President, I rise today to speak on the upcoming debate in this Chamber on the balanced budget amendment to our Constitution. I believe that the debate which is now taking place in the House of Representatives, and which will soon take place in this body, is probably the most important debate in the tenure in this body from the standpoint of the membership of the Senator from Alaska.

Mr. President, the simple and unalterable fact is that spending by this Government is completely out of control, and we know it. It is not that we are just a little out of control but completely out of control.

As Congress marches merrily toward imposing its next trillion dollars of debt on this country, it is time someone said "Enough." Mr. President, the best way to say "Enough" is to pass a balanced budget amendment.

My friend from Illinois has outlined very eloquently and with a sense of foreboding the realities associated with the interest on the debt; 15 to 16 percent of our current deficit is interest.

That is like owning a horse that eats while you sleep. It provides no jobs, no benefits; it just continues to go on and on and on. Out of our $400 billion deficit the interest costs are somewhere in the area of $220 billion.

Mr. President, there may be some debate in the upcoming days about whose fault this deficit is. It is everybody's fault; there is more to go around than can be pointed in any particular direction. But the American people are not interested in whose fault it is. They are interested only in a solution. They are interested in a solution to assist them, which has saddled them with nearly $4 trillion in a national debt, a system which this year alone will add an additional $400 billion to that debt.

Mr. President, the American people demand a balanced budget amendment, and that is why in a poll this week in Washington, in the Washington Post, as a matter of fact, 77 percent of likely voters supported a balanced budget amendment. They understand, even if some here do not, that this amendment must become law.

I have also heard from more interest groups than I can count that the balanced budget amendment is somehow a bad thing. Yes, the interest groups say that the deficit is a problem, but we need to save all our programs in this and that and in other things.

Yes, the interest groups say, the deficit is the problem, but there must be a solution other than a balanced budget amendment. Yes, the interest groups say, we must be able to eat our cake and have it too.

Well, hory says otherwise. Clearly, we do not have the discipline in this body. And, as a consequence, the evidence is real; the alternatives simply have not worked.

Mr. President, it has to stop. The voters support a balanced budget amendment for the same reason I do. Because it is shameful to spend like we have done in the past, leaving the debt to our grandchildren. It is a shameful process to pretend that the deficits will simply go away if we do not do anything. It is shameful to protect every single Government program, and never mind who will pay for it. We must put a stop to that. We must pass a balanced budget amendment.

I might add at this point that the arguments in favor of a balanced budget amendment are as old as the Republic itself. I am proud today to ally myself with the beliefs of men such as Thomas Jefferson and Alexander Hamilton. They understood then, as all of us must understand now, that a government cannot survive which spends more than it receives. They understood that the constant expansion of debt is a sure way to bankrupt a society. I ask those who worry about their programs today if an amendment is passed: what sort of social programs or defense programs can a bankrupt society provide? The answer is obvious: none, and that is what our grandchildren will get if we do not live up to our obligations to them and pass a balanced budget amendment.

Finally, Mr. President, let me quote President Jefferson on the very subject we are discussing today:

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

Unfortunately, Thomas Jefferson's wise words have gone unheeded, and even if we began to balance the budget today we would still be trillions of dollars in debt. But the only way to get back to where we should be, the only way to live up to President Jefferson's moral challenge to us all, is to get this deficit under control. Mr. President, the best way to do that is by placing fiscal responsibility where Jefferson and Hamilton believed it ought to be, in the Constitution of the United States of America.

I thank the Chair, and I yield the floor.

Mr. SIMON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Illinois [Mr. SIMON].

Mr. SIMON. I yield 7 minutes to the distinguished Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized for 7 minutes.

Mr. DECONCINI. I thank my friend and colleague from Illinois. I want to compliment him once again, as I do every time I get an opportunity, for his leadership in this very important not only constitutional issue, but economic issue, facing this country. He has been in the Congress and the Senate now since 1974, I believe, and he has witnessed what we all have witnessed here, and that is a disaster occurring day after day, year after year.

I want to tell Senator SIMON that without his leadership today, I do not think we would be on the verge of passing an amendment, which I believe we have the capability to do, and we can do in the very near future. More than ever, a balanced budget amendment is needed by this country. We are truly mortgaging our children's future with mounting budget deficits.

Since coming to the Senate some 14 years ago, I have continuously sought to see this constitutional amendment brought to the floor and see it passed and implemented. In that time, the national debt has more than quadrupled, to over $3.6 trillion. Had a balanced budget amendment been passed during the first year of my term in the Senate, that debt would be today about $900 billion-plus instead of the almost $4 trillion that we face today and an expected $399 billion in deficit spending this year alone.

Few in Congress would dispute the need to control deficit spending. Collectively, however, Congress has not been able to exercise the leadership nor to demonstrate that they have the ability to bring about a balanced budget. We have tried; we have tried many times. Quite frankly, I think we have fooled ourselves and we have fooled the American public.

The only practical solution left to us today, for the survival economically, in my judgment, of this great Nation is a balanced budget amendment. I do not want to dramatize this as being the most important vote that I will ever cast in the U.S. Senate. But I must say, as of today, this is the most important issue I have faced, and I think an opportunity for this Nation and this body to step up and do the right thing.

This is a relatively simple amendment. Some will argue that is the trouble. It is too simple; it is unclear.

Look at our Constitution, and you see our amendments are not always specific and point out every detail of what is thought of by the drafters of that amendment. And that is the purpose of a Constitution and that is the purpose of our system of government. We have a balanced system of government, of checks and balances, and we want the leverage and capability of a Constitution to live with us.

But it is a simple amendment. There is nothing that would establish any permanent level of expenditures or taxes. It does not say we are going to raise taxes. It does not say we are going to cut entitlements. It does not say we are going to decimate defense or we are going to increase defense. There is nothing which mandates any kind of Government reduction, if that is the will of the Congress and the President of the United States.

What it does do is say that we must bring the budget into balance. And if there is good reason not to do it, there is flexibility. And there will be times when we must run a deficit. But I cannot say that this is the time that we should be running the deficit that we are today.

The amendment would also require the President to submit a balanced budget. I am not here for partisan political reasons, because the former Democratic President, President Carter, failed to ever submit a balanced budget, and he promised when he ran for office he would balance the budget during his term. I believe my recollection is that he left a deficit of something in the neighborhood of $60 billion, or close to it, the last year in his administration.

Then we have two Presidents—one former President, President Reagan; and President Bush—who promised a balanced budget. You remember President Reagan. In 3 years, he was going to balance the budget. And he got in office, and he realized what a horrendous

problem it was. So he expanded it to 4 years. I said great, and I joined with the President in passing his Economic Recovery Act, because I believed we needed to give him a chance and it turned out to be a huge mistake. I thought maybe this Governor, who was able to balance the budget in California, probably the most conservative President we have had in this century, could really bring about at least the discipline within the administration to submit a balanced budget to the Congress.

Quite frankly, as embarrassing and as difficult as it would have been, having to run in 1982 and cut programs, if that is what we had to do, or raise taxes, or whatever we would have had to do, I would have welcomed that challenge had the President had the courage to do it.

And then there's President Bush. We do not even talk about the deficit anymore under President Bush. And skillfully or unskillfully—happenstance, perhaps—has brought us to an agreement with the majority of Congress and the administration that we are going to go ahead and let these deficits rise and we are going to tell the public at the same time that we are reducing the deficit by some $500 billion over 5 years.

A balanced budget amendment is necessary, Mr. President. It is not just the President's fault for not submitting a balanced budget amendment. We have not responded here. We have tried a number of times to balance the budget, but we have kidded ourselves or we have always extended it or let it lapse or we have found an excuse legislatively.

The balanced budget amendment will provide accountability. It provides flexibility. Members avoid accountability through deficit spending, failing to make the through tough political decisions required to choose between too many programs competing for too few dollars. And who am I to say that my priorities must always govern? I like them. I am convinced they are good. They are good for my constituents. But someone else may have a different priority, and that is what it is all about, and this amendment would force us to discipline ourselves.

The President and Members of Congress are sworn to uphold the Constitution. I think every Member takes that oath very seriously. Failure to abide by the amendment would constitute a violation of public trust. The American people would be the ultimate decisionmakers.

It is possible it could go to the courts and people would say: Oh, my God, we do not want this to go to the courts. That would be disaster.

Constitutional questions go to the court everyday in this country, and the court makes decisions. Sometimes I think they are awful and sometimes I think they are wonderful. It depends on your perspective on that particular issue. But that is what the court is there for, if they decide to take jurisdiction. Nobody knows what the court will do, whether or not they will even accept jurisdiction. Nobody even knows what the claim might be, but that is our process. That is the risk of living in this democracy and this Republic.

The ultimate proof that a balanced budget amendment can work is the experience of the States. Almost all States have some constitutional provision limiting their ability to incur budget deficits. Consequently, more States budgets run surpluses than deficits today. In my State of Arizona last year, out of the $3.5 billion budget, they had a $20 million surplus. It is not much, but, boy, would we not like to have a measly little $20 million surplus on the national level?

While the economic demands and available resources are different, obviously, between States and the Federal Government, the overall success of State constitutional budget limitation illustrates that a balanced budget amendment can provide the incentive and discipline necessary to place our Nation on the road to fiscal responsibility.

This amendment and the whole idea of a constitutional amendment to balance the budget has been the subject of countless congressional hearings and numerous articles. The Senate approved such an amendment in 1982. I was pleased to manage it on behalf of the Democratic side at that time. We got half of the Democrats to vote for it. We had more than the 67 votes necessary. We came very close to passing it again in 1986; I believe losing it by one vote. It was so close, so close—such an opportunity. At that time the House might have taken it up and passed it.

Gramm-Rudman was used as the reason to defeat the amendment at the time. I remember so well, "We are going to do this legislatively." Mark my words we will see that argument coming once again, "We can do it legislatively. That is the way to do it. We do not want to mess with the Constitution."

That is not going to work. Anybody who wants to make that argument, who has had any experience here on the way this budget process works, must admit that.

Clearly, the public wants a balanced budget amendment to the Constitution. A recent poll, as pointed out by the Senator from Alaska, indicated 80 percent of the American public support a balanced budget amendment. Our bottom line is immersed in red ink in this country. We are drowning in it. Drastic action is needed, if you want to call this a drastic action. However well intentioned we may be in trying to reduce this deficit through the legislative process, we have not been able to do it.

We can stop taking collective blame and pointing the finger. We can say to the American public we have failed, but we have a solution. We are going to balance the budget by putting it in the Constitution and forcing us to adhere to that Constitution.

A constitutional amendment is indeed needed because legislative rules have failed us and the next Congress can always reject those rules and repeal them. We did that in 1978 when we passed the Harry Byrd amendment mandating that we balance the budget next year. We ignored it, just absolutely ignored it. And that was constitutional, because that Congress was not bound by the previous Congress. If Congress adopts this amendment, there is a way to spend deficit dollars under emergencies. States have to ratify this. All the protections are there.

If we are making a mistake, as some will say we are, we are not alone in the constitutional process to see that a constitutional amendment becomes part of the U.S. Constitution. It must go to every State and receive approval of three quarters of the States before it is effective. So, just in case somebody says, What if you make a mistake? Do you want to take a chance with the Constitution of the United States? The answer is we will not be taking a chance because we will have every State debate this issue. Every State will have an opportunity. They can tell us if we are wrong, those of us who are supporting this and have for so long, and if we are making a mistake we are going to hear from the people. Just as we are hearing now from the people. And they will tell us, "We will not ratify it."

Many constitutional amendments have not been ratified, including the equal rights amendment, something I know the Senator from Illinois has been such a strong supporter of, as I have. We have come close, but we cannot get it.

The process is here. We ought not to be afraid of it. We ought to move ahead and pass this amendment. I welcome a thorough debate on this subject matter in the next week or two. I look forward to working with the Senator from Illinois, and, also, I want to thank the Senator from South Carolina for his leadership. He has been out in the forefront long before this Senator was in this body. I read about him, I knew about him, and when I came here I realized he was a leader in this area. He is here today just as he was, I am sure, 25 years ago preaching the truth, preaching to the American public that the time has come. Indeed, it is here today.

Mr. THURMOND. I thank the Senator from Arizona, and I yield 4 minutes to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire, Mr. SMITH.

Mr. SMITH. Mr. President, I wish to commend Senators SIMON, THURMOND, KASTEN, and CRAIG and others who have exercised such leadership in this area.

Mr. President, I have long been a supporter of a constitutional amendment. I fought for it for the 6 years I served in the House as well as here in the Senate because it is needed. The American people want it. We all know if the Congress of the United States, and, frankly, several Presidents had worked together to balance the budget, an exercise in fiscal restraint and responsibility that they should have, we would have had a balanced budget and we would not need the amendment. But the truth of the matter is collectively we do not have the courage to do it and we will need the Constitution to mandate it.

The people, frankly, are sick of the rhetoric. They are sick of inaction. And they are sick of the huge spending and deficits and debt that this Congress has run up on the American people. They want it changed, and they want it now.

But the dogs are out. I would like to discuss just a few of some of the most disgraceful tactics I have seen yet, almost, on any legislation that some of the opponents of the balanced budget amendment have used to discredit this proposal.

On Monday, my office received a press release from an organization called "Families USA." I do not know which families the organization represents. They certainly do not represent my family, and they certainly do not represent the families of the taxpayers of the United States of America, who are fed up with the big spenders here in this city.

Let me read just a couple of quotes out of this.

"President Bush's constitutional amendment"—it is now just President Bush's amendment, nobody else's—"President Bush's Constitutional Budget Amendment is a dagger aimed at the heart of Medicare." The amendment, "will make a Medicare unaffordable for millions of our parents and grandparents."

That is not enough. The press release goes on to say that this amendment will "slash Social Security benefits for 42 million Americans, forcing more than a million older Americans into poverty."

This is just unadulterated trash. That is the nicest way I can think to say it. I have a copy of four different balanced budget amendments by the Senators that I just named, Democrat and Republican. Not one of these amendments even mentions Social Security or Medicare. Yet this piece of garbage states this amendment will—not might, should, could—will slash Social Security. It is pure drivel.

An amendment to the Constitution is very serious business. Reasonable people can have reasonable differences on this issue. That fact, however, does not justify the printing and distribution of lies designed to instill fear in the hearts and minds of the elderly of this country.

What is next? Why do we not just spread a few more lies about the balanced budget amendment? Why do we not say that, if we pass a balanced budget amendment, we will confiscate all personal property in America? Why do we not also say, if we pass a balanced budget amendment, major league baseball will be canceled for the next 50 years? Or children under the age 18 cannot eat ice cream for the next 50 years? Why do we not spread a few more outrageous lies? We can say anything. We do not have to back it up with facts.

Here is another statement in the release. "I just can't understand politicians so hypocritical that they send flowers on Mother's Day in May and then vote to slash mom's Social Security check in June."

My mom gets Social Security, and my mom would like to continue to get her Social Security and would like to have Social Security for her children, grandchildren, and their grandchildren. That is not what is going to happen. That is not what is going to happen if we do not get a handle on this debt in this country, Mr. President.

Let me remind, as other speakers have, a $4 trillion national debt is fast approaching. No. 2, $210 billion annually, interest on this debt.

No. 3, a deficit of $400 billion this year. That is more than $1 billion a day, Mr. President.

The PRESIDING OFFICER (Mr. REID). The Senator's time has expired.

Mr. SMITH. I ask unanimous consent for 1 additional minute.

Mr. THURMOND. I have no objection.

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

Mr. SMITH. I thank the Senator from South Carolina.

Mr. President, apparently Families USA do not intend on having children in the near future because if they did, they would be concerned about the fact that there are not going to be any benefits for anyone if we do not get a handle on this debt. There will be no Social Security or anything else in the future when our country goes bankrupt, which is where we are heading.

Mr. President, numbers do not lie. If we continue at this pace, the Federal Government will spend 31 cents of each dollar on interest payments by the year 2020. That is more than double the 14 cents of each dollar we waste on interest today.

Opponents of a balanced budget amendment are fond of stating that nothing prevents us from passing the amendment today. Nothing prevents the President from submitting a balanced budget; nothing, except the guts to do it, and we do not have that collectively. Therefore, we need an amendment. Thank you, Mr. President. I thank the South Carolina Senator for yielding.

The PRESIDING OFFICER. The Senator from South Carolina has 6 minutes remaining under his controlled time.

Mr. THURMOND. Mr. President, additional time is allowed, and I ask unanimous consent it be equally divided.

The PRESIDING OFFICER. Who yields time now?

Mr. SIMON. Mr. President, I just checked, my time has expired.

The PRESIDING OFFICER. The Senator from South Carolina has just yielded you 3 minutes.

Mr. THURMOND. I will be glad to yield.

Mr. SIMON. I thank my colleague for yielding 3 minutes. I ask unanimous consent that an additional 7 minutes be allotted to my colleague from Illinois, Senator DIXON, so that he can speak for 10 minutes on this amendment.

Mr. THURMOND. Mr. President, we have more people to speak. I do not object to adding additional time just if it is equally divided.

Mr. PRYOR. Reserving the right to object, and I will not object, Mr. President, but I need to get some clarification, if I might, from the Chair as to the status of the special order relating to defense transition. It is my understanding that there are six Senators from this side of the aisle who will be speaking, and I thought that that period started at 10 a.m. I may have been mistaken. I want to check.

The PRESIDING OFFICER. The Senator is correct. Under the order now standing, the Senator from South Carolina has 3 minutes under his control, the Senator from Illinois, as a result of the Senator from South Carolina yielding 3 minutes, has 3 minutes remaining under his control. At that time, unless there is a change in the order of proceedings, there will be then an hour under the control of the majority leader or his designee. It is my understanding, the Senator from Arkansas is the designee of the majority leader for that hour.

Mr. THURMOND. Mr. President, if there is no objection, I will just ask for an additional 15 minutes to be equally divided, if that will take care of it.

Mr. PRYOR. I have no objection.

The PRESIDING OFFICER. It is the Chair's understanding then the Senator from South Carolina has 3 minutes, the Senator from Illinois has 3 minutes, and is the request for an additional 15 minutes to that?

Mr. THURMOND. To be equally divided.

The PRESIDING OFFICER. So that is 10 minutes each.

Mr. COATS. Reserving the right to object, and I will not object either, obviously we have sparked a lot of interest on an extraordinarily important subject. I am just wondering if those who had requested the special order on the balanced budget might consider finding additional time either today or tomorrow where we can continue this debate. I would like to speak for more than just a minute or two and I understand the time constraints and the desire of other Senators who had previously ordered the special order time. Perhaps we can work out something, if not right now, very shortly, whereby we can continue this. I am sure there are other Senators who would like to come and speak at length on this. This we all know is a preliminary discussion relative to what is going to probably take place next week.

Mr. THURMOND. Mr. President, I think we have only two more to be accommodated. I think if we get 15 minutes additional, equally divided, it will take care of both sides.

The PRESIDING OFFICER. There is a unanimous-consent request now pending. That request would give the Senator from South Carolina 10 minutes, the Senator from Illinois 10 minutes.

Mr. PRYOR. Mr. President, reserving the right to object, does this take us to 10:25? Is that right?

The PRESIDING OFFICER. That is right.

Mr. PRYOR. Mr. President, I am going to ask, to accommodate the distinguished Senator from Maryland that the special order on the balanced budget end at 10:20 because we have six speakers lined up here. They have rearranged their schedule and, out of fairness to them, I hope that we can conclude at 10:20, at which time I am going to yield the first speech on the defense transition to my friend from Maryland, Senator MIKULSKI. And I will make the second statement, if that is agreeable with all parties.

The PRESIDING OFFICER. There is now another unanimous-consent request that has been propounded that would terminate debate on the balanced budget amendment at 10:20. That would give approximately 7½ minutes per side. Is there objection to that?

Without objection, it is so ordered.

Mr. PRYOR. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DIXON. Mr. President, the request had been made to yield time to the Senator from Illinois; is that correct?

The PRESIDING OFFICER. There had been a previous request that was made by the junior Senator from Illinois. How much time does the Senator from Illinois yield?

Mr. SIMON. I yield 7½ minutes to my colleague from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 7½ minutes.

THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. DIXON. Mr. President, I rise in strong support of Senate Joint Resolution 18, the balanced budget amendment to the Constitution. I am proud to be a cosponsor of this legislation, and I congratulate my distinguished colleague and warm friend, Senator SIMON, for his efforts to make this amendment part of the highest law of the land.

The balanced budget amendment is simple and straight-forward. It mandates that outlays not exceed revenues in a fiscal year, with limited exceptions. It mandates that the President submit a balanced budget to Congress each fiscal year. There are reasonable provisions for enacting an unbalanced budget in certain instances. The amendment is, therefore, a positive step forward on the road to fiscal responsibility.

If anyone doubts the necessity of enacting this amendment, Mr. President, one need only realize that in fiscal year 1993, gross interest payments on the debt will become the largest single expenditure in the budget, surpassing defense and Social Security. Some $315 billion will be spent on interest on the debt. Just think what could be done with even a small portion of that money.

Some have chosen to inflate the amendment's worth; others have chosen to deflate its merits. This legislation is neither budgetary elixir nor fiscal poison. However, it will force the Congress and the President to focus critical attention on the ballooning deficit and encourage both ends of Pennsylvania Avenue to seriously deal with it.

I believe in the concept of a balanced budget amendment as a needed tool for fiscal discipline, and am heartened by the experience of the 44 States who currently operate within such mandates.

Fourty-four States, their Governors and legislatures, have had to submit, and enact, balanced budgets. The road to a balanced budget is often rocky and acrimonious, but in the long run, a balanced budget is in the best interests of all concerned. States have proven that there can be fiscal discipline, while still funding needed programs. States are forced to prioritize, whereas the Federal government is not.

A number of opponents to the amendment warn that domestic programs, many already chronically underfunded, will suffer the most from the fallout of a balanced budget amendment. However, the amendment does not require cutting any specific program—or, indeed, any particular cuts at all. What it does is to require the Government to do what every American already has to do—keep spending in line with income.

Opponents of the amendment will argue that what is needed to solve our deficit problem is the application of our collective political will to face the fire, make the tough choices, and slay some sacred cows.

There is no doubt that considerable political will is necessary, and that tough choices will be required.

The balanced budget amendment, of course, is not a mechanical, formula-driven replacement for democratic government. It neither supplies the political will, nor makes the tough choices. Congress and the President will have to muster the will and make the decisions—and that is as it should be.

What the amendment does accomplish, however, is to make it impossible for either end of Pennsylvania Avenue to ignore the issue or to continue postponing decisions. It does require us to live within our means—and to stop the practice of spending for ourselves while burdening future generations for the cost.

Mr. President, I think the worst thing this Government has done in recent years has been to attempt to shift the burden of today's spending to tomorrows taxpayers. I think that is wrong—very wrong—and that we cannot afford to continue down that path.

Ending the robbery of our children, and their children, is reason enough to support a balanced budget amendment. Prevention against this kind of intergenerational pickpocketing belongs in our Constitution.

Of course, there are many other reasons a balanced budget amendment needs to be part of our Constitution. I look forward to the day when we will begin the real debate here on the Senate floor.

At this time, I would simply like to close by reminding my colleagues that we are talking about a constitutional amendment, and not a statute. The Constitution is no place to name specific programs. It is no place to put the specific implementing decisions that will be required. Opposing the amendment, therefore, because it does not, in its text, tell us how we will get to the balanced budget, or because it does not protect our favorite programs, makes no sense at all.

Our debate on the balanced budget amendment should not focus solely on the transitional issues of how we will get from where we are now to a balanced budget. Instead, it must focus on whether or not it is wise to make a balanced budget requirement part of basic law of the land for all time.

If we take the long view, if we concentrate on the swamp instead of just the alligators, I am confident that my colleagues will see the wisdom of the balanced budget amendment and will vote to send the amendment to the States for ratification.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. SEYMOUR addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized for how long?

Mr. SEYMOUR. Mr. President, Senator THURMOND from South Carolina had asked me to manage the remainder of our time. It is my understanding we have 7 minutes remaining.

The PRESIDING OFFICER. That is right?

Mr. SEYMOUR. Mr. President, I yield 3½ minutes to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 3½ minutes.

Mr. COATS. Mr. President, I thank the Senator from California for yielding the time, and I realize the time constraint we are under.

I think we are on the verge of something extraordinarily historic with far-reaching implications for the people of this country, for the economic future of this country, the economic health of this country. I think it deserves a great deal of debate and discussion.

We know that the House of Representatives will be debating and voting on this amendment today and tomorrow; that the Senate will then take it up, and I assume that we will have a lengthy debate. We should. I think we have engaged that debate now. I think we should continue that on a daily basis until the Senate votes on it.

I think the American public should weigh in, all of us should weigh in, with our thoughts on this. I am heartened by the fact that we have seen this morning a bipartisan display of support for what I think is a very fundamental principle of life, an enduring principle, that principle being that you cannot, should not spend beyond your means, and if you do you find yourself in trouble, whether it is you as an individual, your family, your business, or your Government.

Our Government has been spending beyond its means. We have been setting an example for future generations that is the wrong example. We have been telling them that you can have your cake and eat it, too; that you do not have to pay the bill; that the bill will never come due. That is simply not true. We are racking up debt at a staggering rate.

Members of this Chamber ought to be scared to death about what we are doing to our economy, what we are doing to our future. We ought to be ashamed of ourselves for what we are doing to our children, our children's children, and the children of families we represent as we are digging a debt hole out of which they may never be able to climb. That enduring American dream of owning a home and sending your children to school, hopefully providing them opportunities greater than what you had, is drying up very quickly. It is fading very fast.

I think we have a moral obligation to ourselves, to our Nation, to future generations to deal with this issue and deal with it now. We have seen attempt after attempt by the Congress of the United States to fix this thing in every way, but the only way it can be fixed is if Members, when they are sworn in, walk down to the front of this Chamber, place their left hand on the Bible and their right hand in the air and swear to uphold the Constitution of the United States and that Constitution includes a mandate that we not spend more than we take in, which forces us to set priorities, which forces us to look at the realities of what Government can do and what Government cannot do, which forces us to be honest with the American people, which allows us to look at interest groups in the eye and say, "Well, that may be a worthy program, and if together we can find a way to pay for it, if together we can find a way to substitute that for perhaps a program which is not doing the job, if we can find a way to establish it is as a priority, then we will work together to make that part of the function of Government. But if we cannot do that, we are constitutionally bound to adhere to the principle of not spending more than we take in."

Mr. President, obviously I am just getting warmed up, which is why I suggested additional time for special orders. I will save additional remarks for when time is available.

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. SEYMOUR. I thank the Chair.

Mr. President, we have a unique situation in the U.S. Senate and the House of Representatives. It is unique, because for the short time I have been here, a little over 16 months, never have I seen Democrat and Republican, liberal and conservative, joining together to support such an important issue. This constitutional amendment, the question before us, is a tremendous opportunity, a tremendous opportunity to do that which I believe is the reason most of us come here to serve in this body. And that is to leave a legacy for our children and our grandchildren.

The opportunity, if we can seize the day, is for us to demonstrate some discipline for a change. America is watching us, Mr. President. And they expect us to fall in this opportunity. They expect us to once again demonstrate that there is no will, no discipline in this body, to stand up for what is right and to call it like it is.

This constitutional amendment will surely test the mettle of 100 U.S. Senators. The question before us is: Will we meet the test? Will we seize the moment? Will we seize the opportunity, to do what is right? Sure, it's not going to be easy. We would love to wiggle out of this. Some have suggested that we can solve this legislatively. From afar, I watched Senators GRAMM, RUDMAN, and HOLLINGS, who worked so hard to come up with the Gramm-Rudman-Hollings balanced budget solution. That was a legislative solution. And unfortunately, it did not work. Because in our legislative prowess, Congress found a way to skirt outside that and run the deficits up to a historical high.

Some would argue that the Constitution is such a sacred document, that it should not be touched. Yet it was nearly 200 years ago that one of our Founding Fathers, Thomas Jefferson, foresaw today, when he said, "If there was one omission I fear in the document called the Constitution, it is that we did not restrict the power of Government to borrow money." Thomas Jefferson said that in 1798.

And so, Mr. President, I say that we must seize this moment. Let us stand for once. Let us be courageous for once. Let us impose some self-discipline for once. And most important, let us show the constituents that we represent, to Americans across this land and to the Californians who I represent, that we have the will to do the right thing.

Mr. SIMPSON. Mr. President, I rise to say a few words about the balanced budget amendment, which has been the subject of this morning's discussion.

Mr. President, there is no hiding the obvious fact that public cynicism is at a historic high. There is frustration out there with the way we in Congress are conducting the Nation's affairs, and that frustration is matched by our own, in this Chamber, with the "gridlock" that prevents us from taking necessary and positive action.

We have before us an opportunity to rise above what have become very low expectations. There is a real spirit of bipartisanship behind these efforts to pass a balanced budget amendment, and I commend my friend and colleague from Illinois, Senator SIMON, a self-styled "pay-as-you-go Democrat," for following the courage of his convictions on this one. I commend my dear friend and colleague from South Carolina—my mentor—the senior Senator STROM THURMOND, who has pursued this cause vigorously for several years.

Mr. President, I am going to say only a few words about the need for such an amendment before discussing the various objections to it. The current national debt is approximately $4 trillion. We have an annual deficit of approximately $400 billion. And we are losing even what little control we have recently had of the budget process. The fraction of the budget that we actually appropriate continues to drop. We will see the annual deficit skyrocket at the turn of the century and beyond, even if we make cuts in discretionary spending levels. Existing caps, or limits on spending, have affected only the discretionary accounts—they have left untouched the vast majority of Federal spending. Without some external restriction on the imbalance between total outlays and total revenues, the burden we are sticking to our descendants will continue to grow.

But enough about that. We know the reality; we know too well what is happening. Mr. President, there have been a number of arguments raised in opposition to this amendment. One of them is that it is unnecessary and restrictive of congressional powers. The Congress, it is said, is granted by the Constitution the "power of the purse." It already has the power to balance the budget. Moreover, to mandate that it do so, it is charged, would be to cut into its constitutionally granted powers.

I would point out in the first place that the proposed amendment would not eliminate Congress' flexibility with regard to deficit-spending. A three-fifths majority vote would be sufficient to deficit-spend. That presents a procedural obstacle to deficit spending—it does not eliminate the option. It could even be said that the "loophole" granted to Congress is too big, for we will have no trouble generating a three-fifths majority to fund certain cherished entitlement programs. In any case, we have, in the course of our budget deliberations, imposed a number of three-fifths vote requirements on ourselves, and these have not been construed as unconstitutional or diminishing our power of the purse.

But even that is not the real point. The essential point is that we are no longer talking about arcane points of fiscal policy. We are talking about fundamental precepts of government. The power of the purse is not, by my thinking, the right to bankrupt the country. It is not the right to steal from future generations to give to the present ones. These are not issues merely of fiscal policy. They touch upon the central obligations that we in Government have—to pass on the blessings of liberty, undiminished, to our posterity. No governmental power, including the power of the purse, can rightly be considered unlimited to the point of destroying this Nation's future.

It is also asserted that a balanced budget amendment would not by itself constitute the tough choices which Congress eventually will have to make. Of course it wouldn't. But it would elevate those tough choices to the status of a constitutional duty. Constitutional amendments almost always require conscientious action by legislatures, judges, and executives to make them effective—whether they pertain to "equal protection of the laws" or to a "speedy and public trial." The Constitution articulates ideals, draws broad outlines, which it is incumbent upon laws and lawmakers to uphold. That would be the case here.

It is also said that budget balancing is not sufficient cause to alter the Constitution. Mr. President, we have altered that great charter over far less. The 22d amendment restricting the President to two terms is considered by many historians to be a product only of partisan pique—Republican frustration over the repeated reelection of Franklin D. Roosevelt. And fiscal issues are not foreign to the Constitution. Surely the 16th amendment, creating the income tax, is no more fundamental to the purposes of Government than what is being discussed today.

Some also oppose this amendment because it fails to include a tax limitation. Let me be clear: I do favor a limitation on the growth of taxes. I am a cosponsor of the Kasten amendment to balance the budget with a tax limitation. We simply cannot balance this budget by increased taxation. We all know that no amount of taxation can keep up with the mandatory spending increases which currently take place automatically.

However, I can also count votes. We will probably not pass a balanced budget amendment that contains a tax limitation, leaving the choice between a more general balanced budget amendment and not having one at all. This is a rare and fleeting opportunity to pass a balanced budget amendment, and we will need much bipartisan cooperation to enact it. I for one will work to see that this amendment, if enacted, is implemented through spending restraint, even if a tax limitation is not included in constitutional language.

We are already seeing a circling of the wagons of those interests who are threatened by a balanced budget. It is very simple. All of those who receive money from the Federal treasury, and who wouldn't if we were forced to prioritize—that is to spend within our means on items most in the national interest—have reason to fear this amendment. And fear it they do. All of us are being besieged by mass mailings: "Vote against the balanced budget amendment; it's bad for the economy." What they really mean is that it might be bad for those taking bucks from the Federal Treasury, regardless of their net worth or their income. But let us take that statement at face value.

I received some interesting figures from the AFL-CIO the other day, indicating that if we were to pass a balanced budget amendment, it would adversely affect economic growth in 1995. It would cost jobs—in 1995. They indicate that the economy could be adversely affected "even by the year 2000."

That's our problem right there in a nutshell—that's how far we look into the future. We can't balance the budget this year, because if we just spend a little bit more, we can help the economy out a little bit—this year. We know that this year's problems are caused in part by deficit spending over several years, but we try to lessen the burden for this year—by increasing it down the road.

Perhaps the economy would be adversely affected in 1995 by a balanced budget amendment. I want to ask the AFL-CIO and other certified and chartered interest groups: What about the year 2005? What about 2010? What about 2030? I want to ask the AFL-CIO and other such groups: How would the 1995 economy have looked if we hadn't racked up $4 trillion in debt? A lot better than it actually will.

There comes a time when we simply have to take the long view. Senate Joint Resolution 18 would leave us enough flexibility in the short term, and it would declare our obligations over the long term. Enough is enough. I urge the favorable consideration of my colleagues on these efforts, and I yield the floor.

THE NEED FOR A BALANCED BUDGET AMENDMENT

Mr. HATCH. Mr. President, during the past few weeks many different arguments have been put forth as to why our Nation does not need a balanced budget amendment. At face value, some of these proposals seem to offer persuasive reasons for rejecting the amendment. Others are less convincing. Nonetheless, they represent a spectrum of supposed reasons as to why Congress should not adopt a balanced budget amendment to the Constitution.

However, there is another side to this issue that cries out for enactment of a balanced budget amendment, one that clearly outweighs all other arguments against the amendment. Simply put, it is that uncontrolled deficits will do irreparable harm to our Nation's economic future.

Last week, the Subcommittee on Deficits, Debt Management, and International Debt of the Finance Committee held hearings to examine the long-term impact of deficits on our economy. As a part of those hearings, the General Accounting Office presented a sobering look at the impact of deficits on our Nation's future. In brief, the GAO study shows that our current policy of deficit financing for Government operations is not only unsustainable, and that deficits will have a devastating impact on our Nation's economy, but that unless we begin to reverse our financial direction in the near future, it may be too late to avoid a collision course with economic disaster. The conclusion from these findings is clear. We need to take action now.

I would like to share with my colleagues some of the key findings of the GAO report. According to their research, if we continue with our business as usual spending habits, the Federal deficit could explode from today's 6.3 percent of GNP to 20.6 percent of GNP by 2020. This horrific growth in the deficit would result from equally terrible growth in Federal spending, projected to swell from a current 23.3 percent of GNP to a staggering 42.4 percent of GNP over the next 28 years.

Mr. President, let me put these abstract percentages into perspective. If

we do not change how our Government spends money, the children being born in this Nation today will each face a terrible financial future. Twenty-eight years from now each American will find that his or her individual share of the public debt is equal to $45,816. Stated another way, this means that in three short decades each family's of the total, publicly held, Federal debt will be an incredible $183,000.

Are we willing to burden the upcoming generation with the devastating effects of our fiscal irresponsibility? I, for one, do not want to have to explain to my grandchildren that they will be paying heavy taxes and suffering woeful economic conditions because we, today, were unable to control how our Government spends its money. Yet, that is exactly the course we are on unless something changes.

Fortunately, this bleak forecast also offers us hope for the future if we decide to deal with the deficit problem instead of putting it off. The GAO study also examined the long-term results that would accrue if Congress undertakes positive, substantial reform and begins now to reduce the deficit. The study shows that instead of leaving a legacy of overwhelming debt and obligation for the next generation, action today could leave a future economy invigorated and growing, with insignificant debt held by the public.

The GAO study is not naive when it discusses the challenge of dealing with the Federal deficits. It acknowledges that the short-term choices will be difficult. But the longer-term results of standing up to our problems now justifies the challenge.

To quote my esteemed colleague from West Virginia, "This is an hour for statesmanship, for patriotism, for maturity and wisdom, not the hour for another quick fix," and I heartily concur. It is time to stop tinkering on the margins, to stop putting legislative bandages on a serious fiscal wound. Congress has overwhelmingly proven its inability to exercise fiscal self-control. The time has come for us to make a fundamental change that requires Congress to mend its ways.

The way to put us on the path toward fiscal responsibility and a secure future is to enact a balanced budget amendment. Only a balanced budget amendment will finally force Congress to squarely address how it spends its money and force us to put our financial house in order.

Tomorrow, the House of Representatives will vote on a balanced budget amendment, and next week this body will begin discussion on a similar proposal. I look forward to openly exploring all of the questions surrounding this most important issue in the upcoming debate.

I also recommend that my colleagues refer to the study from the GAO that I have been referring to entitled, "Prompt Action Necessary To Avert Long-Term Damage to the Economy," to help them understand just how important it is for us to resolve this critical problem.

This is a pivotal time for Congress. The present and future well-being of our Nation hang in the balance, and our actions over the next few days concerning a balanced budget amendment will determine which way the scales are tipped. I urge each of my colleagues to decide now to be a part of the solution by supporting the balanced budget amendment.

BALANCED BUDGET AMENDMENT

Mr. KASTEN. Mr. President, I rise today to discuss a major threat to our country's economic future. It is essential that we find a solution to the runaway budget deficit—and that we do it immediately.

The basic problem is a Federal Government that is too big. Congress is currently spending over 25 percent of America's annual gross domestic product [GDP]. In the last 3 years, the pages of the Federal Register—the rule book of the Federal bureaucracy—have increased from 55,000 to nearly 70,000.

Tax hikes and overregulation have a serious economic and budgetary effect. Every year since 1986, fewer and fewer new small businesses have been incorporated. This is a dagger aimed at the heart of job creation—at the economic future of America. Fewer small business starts means fewer jobs—and that means less revenue for the Federal Government.

We need to get government spending under control. And that means we need major reforms of the congressional budget process. Some of us have been fighting for these reforms for years—for balanced budgets and the line-item veto.

But this year, there is a big difference. This year, these ideas have reached critical mass—because the American people are furious about the fact that their Federal Government is arrogant and out of control.

In this regard, I would like to discuss the balanced budget amendment proposals that Congress is debating. Our distinguished colleague from Illinois, Senator SIMON, is proposing one approach that I think would not work—because it would not limit taxes. I have introduced another approach that would require a three-fifths vote of Congress to approve tax increases beyond the rate of growth of the economy, as well as a three-fifths vote to spend more than revenues allow or to increase the public debt.

My amendment—which I call the taxpayer protection plan—would not just eliminate the deficit. It would also break the cycle of escalating Federal spending and taxation.

Over the last 30 years, Congress has balanced the budget only once—but raised taxes 56 times.

Under the Simon amendment, Congress could always find the money for the extra spending it wants by raising taxes—and then they could escape the wrath of voters by claiming the Constitution made them do it.

I think this tax increase approach is fundamentally misguided, and economically disastrous. I do not think we ought to be talking about tax increases at all.

We simply cannot allow the forces of big Government to use this constitutional amendment as a Trojan horse for tax increases.

History shows that while tax increases are easy for Congress, spending cuts are practically impossible. In the 1982 TEFRA tax bill, Congress promised Ronald Reagan $3 in spending cuts for every dollar in tax hikes. The actual result was a $2 spending increase.

The 1990 budget summit turned out exactly the same way. It supposedly raised our taxes by $165 billion to reduce the deficit. I voted against it because I knew that when taxes went up, spending would rise even faster. And that is what happened. The deficit has exploded to a record $400 billion.

The taxpayer protection plan would limit both taxes and spending—and that is the only sure way to get the economy back on track.

Critics of the balanced budget amendment see these proposals as yet another act of political cowardice by Congress. They say that there is no substitute for the will to make tough choices to get the deficit under control.

This criticism is not entirely false. Many Members of Congress are supporting balanced budget amendments strictly out of political fear. But this criticism does not apply to those of us who have been fighting for balanced budgets for many years.

We know there is no substitute for tough choices. Once we get this amendment passed, Congress should get to work—immediately—on a 5-year deficit reduction plan. Without a Gramm-Rudman II type of provision, Congress may well delay the tough decisions until 1996 or 1997 when the amendment goes into effect.

We need to get spending under control now. I have repeatedly offered amendments in the Senate to reduce the rate of growth of Government spending.

Congress continually votes down these amendments—and votes to increase spending instead. My balanced-budget proposal would make it more difficult to increase spending—by raising the voting threshold to 60 votes. If my amendment is enacted, we will need more than a simple majority to increase the Federal Government's burden on taxpayers.

We can balance the budget without tax increases. My play for a balanced budget involves a 5-year program of restraining the rate of growth of Federal spending.

The nonpartisan Congressional Budget Office is projecting total tax revenues to be $1,500 billion in 1997. What we need to do is make sure that our spending does not rise fast enough to surpass the combined total of $1,500 billion and the additional revenues generated through progrowth economic policies.

Essentially, that means we can spend more than we are spending now, but we have to spend less than Congress expects to spend. To cut the growth of spending will make a lot of Members of Congress unhappy, but we simply have to do it.

Clearly, we can find some extra money in the defense account. Congress is talking about major cuts in defense over the next 5 years. We can transfer that to domestic spending or—as I prefer—back to the taxpayers.

This plan will put us on the road to a balanced budget, and once we get started our progress will accelerate rapidly. One reason is that we will start to save money on interest payments. Another is that when we start restraining the Federal Government, the economy will expand faster and therefore expand the revenue base.

An expanding economy is key to keeping the budget balanced. In the high-growth period between 1983 and 1989, the deficit as a share of GDP fell from 6.5 percent to 3 percent. The high-tax, recessionary policies of the past 3 years have pushed the deficit back up to 7 percent of GDP.

It is time to break out of static thinking—and start looking at the problem in a dynamic way. If economic growth is just 1 percentage point higher than forecast, that amounts to $258 billion in deficit reduction over 5 years. If it is 2 percentage points higher, the deficit reduction is $387 billion.

Too many in Congress are looking at this problem in entirely the wrong way. Economic growth is not only the way to ensure a higher standard of living—it is also the cure for the deficit.

Hold the line on taxes. Be responsible on spending. And get the economy moving with growth incentives. That is how we can get the deficit under control.

It is said that the first rule in getting out of a hole is stop digging. And that is what the taxpayer protection plan is all about.

The President has endorsed my taxpayer protection plan. There are efforts underway to either defeat this bill outright or somehow confuse the vote. We have to make sure everyone understands what the vote is really about—it is about the balanced budget. We cannot let people confuse the issue with procedural tactics.

The Government's share of the economy is expanding faster than the paychecks of working people. We need to reverse that trend—and that is why I will continue to work for the enactment of the taxpayer protection plan.

The PRESIDING OFFICER. The Senator's time has expired. All time has expired. We are now under a previous order with the time under the control of Senator PRYOR, the designee of the majority leader.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator now has 1 hour. The time will expire at 11:20.

DEFENSE TRANSITION IN THE AMERICAN ECONOMY

Mr. PRYOR. At this point, Mr. President, I think that we have approximately six members of the Senate from this side who will discuss defense transition in the American economy.

Mr. President, it gives me great pleasure at this time to yield the floor. I understand Senator MIKULSKI, a member of the task force, is now prepared to make her statement.

The PRESIDING OFFICER. How much time is yielded to the Senator from Maryland?

Mr. PRYOR. I yield to the Senator from Maryland 10 minutes.

Ms. MIKULSKI. Thank you very much, Mr. President, and I thank the distinguished chairman of our defense transition task force for yielding this time.

I want to particularly acknowledge his leadership in helping to formulate what I think is a fantastic set of proposals that will deal with the democratic economic transition strategy.

Mr. President, we are at the defining moment in American history. Last year, we saw the collapse of imperial communism and the end of the cold war. It was just last year that we were celebrating our triumph in the gulf.

Now, we are in a new war and that is the war for America's future. America wants leadership. America wants a navigational chart that will lead us into the 21st century. America knows that a new century is coming, a new economy is being borne, and they want to make sure the United States of America continues to lead the way.

Mr. President, the American people want leadership, and in the absence of Presidential leadership, the Democratic defense transition task force will be a President by proxy. We will offer to the United States of America that navigational chart to make sure we do not lose ground, that we do not lose talent, and most of all, that we do not lose our way.

I was honored to be part of that task force, to advocate ideas that we hope will generate economic growth and job creation, that will reinvest taxpayers' money to create more jobs today and jobs tomorrow, to use proven successful programs, and at the same time not burden the taxpayers with increased expenditures.

We focused on two areas: personnel and technology development. We took a look at the personnel of the Department of Defense and said we do not want to lose talent and, therefore, lose time and lose ground. Therefore, this task force adopted many ideas, two of which I recommended, that I want to share with dedicated DOD civilian personnel today.

We are saying to those men and women who worked at the Department of Defense, who fought for democracy around the world in their own way, that even though they have been abandoned by their Commander in Chief, we will not now abandon them.

We will first of all give them a simple tool for self-help, an 800 number that they can call, Mr. President, not to make campaign contributions but to ensure that they can continue to contribute to American society by finding other placement within needed areas within our own Government sector; that talented engineer, at DOD, could find a job at NASA; that brilliant computer program specialist can find a job at the National Institutes of Health; that talented dedicated secretary that worked through the night on many projects is needed in other areas of our Federal Government.

Our 800 number will do that, and we also make sure that when they apply for jobs they will get priority placement over other newcomers. We believe that, if you serve your country, practice patriotism, and bring the work ethic, we do not want to lose you because the United States of America needs you, needs that talent, needs that competency, and most of all, needs that patriotism.

While we are working on personnel issues, we also wanted to look ahead to the issue of jobs.

Mr. President, I am obsessed with generating jobs in the United States of America. It is not only my occupation as a Senator, but it is my preoccupation as a Senator. We want to make sure that we generate jobs today and jobs tomorrow.

That is why we have taken a look at what the United States of America is doing that we can transfer to the civilian economy. We want to make sure we develop products that the world will come to buy. I do not want us to be a tin-cup economy where we go around the world begging people to buy our products sometimes of mixed value and mixed need. I do not want America to be only a marketplace where we buy other countries products. That is why we worked to generate jobs today and jobs in the future.

One of the areas that we looked at is what are the critical technologies that are needed both now and into the 21st century. What could the United States of America do to develop the precompetitive technologies that we could then foster and advance?

I do not want to pick winners and losers as a Federal Government. I do

not believe in centralized planning. I do not want our plan to sound like we are a little Trotsky pamphlet with five-point programs and eight production plants. Socialism and communism died around the world. We do not want to invent it in our own ideas.

But we do know how we can win, and one thing we can do is take the Federal research that is going on in the military and pass legislation that makes sure it has a dual use purpose. An example would be in the environment. One of the largest procurers of environmental cleanup technology would be the Department of Defense.

I have always advocated creating a national environmental technologies agency modeled on the Federal program called DARPA, the defense supply research agency. I want us to get into developing the precompetitive technology in the environment.

Our foreign competitors intend to be the Jolly Green Giants of the 21st century. Germany is investing five times as much on environmental research as we are. Japan has already targeted five areas of environmental technology prevention and cleanup. We will pass the best environmental legislation in the world but we will then go abroad to buy the technologies to do the cleanup and prevention.

Why do we do that to ourselves? Why do we always increase our mandates and yet lose the jobs? We also then want to make sure we translate our research into job development. We win the Nobel Prizes and other nations win the markets.

Well, this task force proposal said that is over. That is why we are advocating a technology with many ideas. My particular area as I said is in the dual use with defense and even a national institute on environmental technology modeled on the National Institutes of Health that will develop the precompetitive technologies and which then the private sector can value add to generate those products that the whole world will come to buy—a green card that leapfrogs over the Japanese development; Superfund cleanup, that we can clean up the Superfund sites at our own United States of America and then sell to Eastern Europe so they can clean up their own environmental disasters. These are the kinds of ideas that this task force is advocating.

We believe it will promote economic growth and make sure, as I said, we do not lose ground and we do not lose time.

Mr. President, I will conclude by saying this: I hope the U.S. Senate passes our defense transition task force package that will truly lay the groundwork for a 21st century economy because we want to make sure just as we were a military superpower we are an economic superpower and that the whole world will continue to turn to us not only for democracy but for the products that we will make and sell.

Mr. President, I yield the floor.

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

The Senator from Arkansas is advised that the Senator from Maryland used 9 minutes of her time.

Mr. PRYOR. Mr. President, I would like to take this opportunity to express the depth of my appreciation and gratitude to the distinguished Senator from Maryland who has truly been one of the leaders on the 21-member Democratic task force appointed by Senator MITCHELL to evaluate our current position and what we must do in the area of defense transition.

Mr. President, Americans are today just beginning to grasp the enormity of one of the most radical changes in our history, the drastic economic adjustments that will rise due to the end of the cold war.

Our current military is going to get much smaller. We look at this chart, Mr. President, and we see in the deep black underneath, military employment getting smaller and smaller. As a result, the defense workers, the communities depending on defense activities, businesses who relied heavily on cold war defense spending at worse face potential devastation and at least radical change.

Unfortunately, we as a nation are unprepared for what is to come. And here is the grim outlook: During the next 4 years 1.4 million defense-related jobs are going to be lost. They are going to be gone and gone forever. This figures out to roughly 1,000 jobs a day lost, Mr. President, over the next 4 years. Thirty-four military bases are going to be closed. Another 48 will be realigned and more are to be announced.

Mr. President, over 150 U.S. communities which are defense dependent today will be hard hit by defense plant closings and layoffs.

Mr. President, after World War II, America faced a very similar challenge to the one we are facing now. We were able, at that time, to turn it into a grand opportunity for economic growth and unprecedented prosperity, which has lasted for more than a generation. Developing a strategy to turn today's defense downturn into an engine for growth and new jobs was the mandate that Senator MITCHELL handed the task force of 21 Democratic Senators last March.

Our report and recommendations were issued on May 21. These were given to Senator MITCHELL. And we think that they received basically good reviews from business, educators, unions, States, cities, including the hard-hit areas of my home State of Arkansas—Blytheville and Fort Smith.

These are the steps, Mr. President, very forthrightly, that the task force took. First, we listened to 12 formal briefing panels, to over 60 experts, representing the defense industry, labor and business interests, educators, Federal, State, and local governments, and community leaders. The message was the same, Mr. President. Every speaker, every expert, every group that we listened to said "change is needed," and defense transition in our economy has no priority in the White House. We heard this over and over.

Second, we took tips from history. We looked back. The experience this country went through after World War II was worth noting. The impact of peace was astounding after World War II. For example, by 1948, defense spending fell from 38.7 of GNP to 3.2 percent; 12.4 million people were laid off by defense companies; 10.6 million soldiers and sailors left the services; 1.6 million workers left civilian military jobs.

As early as 1943, 2 years before the end of World War II, the Office of War Mobilization and other agencies were busy preparing for defense transition or, as they called it then, "reconversion." Changes ranging from Government tax policy to procurement regulations and the GI bill helped to launch this country into an era of economic prosperity. What had the potential of economic disaster at war's end in 1945 became a golden opportunity made possible by committed leadership from the Government and from businesses in the private sector.

Our task force learned that defense transition assistance today faces economic hurdles not around in the 1940's. After World War II, the economy was poised for growth. Personal savings and consumer demand were extremely high. Most defense companies could easily change over to civilian-type efforts, and America was second to none in technology development. In contrast, Mr. President, today, America is in chronic recession; foreign trade competition is at an all-time high; personal and corporate debt are at all-time highs; unemployment is perched at 7.5 percent, and many defense companies are completely dependent on defense contracts for their survival.

In short, Mr. President, the message from history to our task force is that we had better get started now, in order to formulate a strategy to deal with defense transition.

Third, based on our briefings and experiences, we set forth three basic guidelines for action:

One, focus on economic growth and job creation to make those investments that pay dividends for America's future.

Second, to use and improve successful, needed programs and not to create new bureaucracies.

Three, take actions this year—not next year, not the year after, but this year—that steer us toward a long-term strategy for transition and growth.

Finally, our defense transition plan draws on the diversity of the task force membership itself, chosen by Majority Leader MITCHELL. As chairman of this

task force, I could not be more proud of the work of the 20 other members and their staffs. We had seven full committee chairmen and a wide range of geographical and ideological interests in our group. Rather than becoming a hindrance, Mr. President, the diversity of this task force, like the diversity of America, has became our greatest strength.

The strategy which was presented in our report to Senator MITCHELL on May 21 was in fact the result of an intense focus of this talented and diverse group of people, and many others, such as Senator LIEBERMAN of Connecticut, who contributed mightily from outside the task force.

From the start, this task force was a response to the current lack of strategy and action. To his credit, 1 week after our task force went public, President Bush came forward and announced his outline for defense transition. The President, we think, took a step in the right direction. Much of what he had to say reflected our recommendations and was a sharp contrast to administration policies of the past.

Part of my purpose today is to urge and challenge our President to continue in the direction he has now started. We need his cooperation; we need his help, and this country needs Presidential leadership in this transition from a defense to a private economy.

Mr. President, I want to briefly summarize our task force recommendations.

First, to reinvest our defense workers in nondefense jobs. These workers deserve more than a hand shake or a gold watch and best wishes for their years of work for our national security. This means retraining, making retraining programs work better, and giving military men and women incentives to go into public service.

Second, help communities adjust, through support programs for communities that need it, Mr. President. This includes expanding the Office of Economic Adjustment. The Office of Economic Adjustment in the Pentagon today has a staff of only 17 individuals, and this is the office that is responsible for all of the base closings across the country, and for providing aid to the communities and businesses that will be adversely affected.

Our recommendation also includes funding of the Economic Development Administration, which gives economic disaster grants to communities. This very small office has been targeted for zero funding since 1981.

Third, help defense community businesses with Small Business Administration loans and possible tax incentives.

Fourth, help defense companies grow into new civilian markets and create new jobs through manufacturing, technology, and marketing assistance.

Fifth, put the $70 billion Government research budget our country is spending today—where 60 percent of the budget goes to defense research—to work as an engine for civilian economic growth. We must make more innovations relevant to the American consumer, to the worldwide consumer, and to business needs.

These are the very basics of our plan, Mr. President. Our strategy contains immediate action that will help workers, communities and businesses today, but it also sets in motion steps that will lead to long-term growth in the civilian economy, and the creation of new jobs for a long, long time to come.

Again, Mr. President, I would like to thank all 20 other members of this task force. I would like to thank their staffers, who worked diligently day and night to meet the deadline imposed upon us by Senator MITCHELL, and the mission that he placed before us.

We thank the expert panelists for their long hours of work, and for their dedication to formulating our report. We also thank the majority leader's office and the Democratic Policy Committee's staff.

We plan to work with all relevant committees in the House and in the Senate. We plan to work with Republicans and Democrats alike. This is not legislation just for Democrats; it is not legislation just for Republicans. Because now we must all work together to transform the task force recommendations point by point, recommendation by recommendation, into legislative accomplishments to help our country.

And, Mr. President, that task begins now. For my part, as chairman of the Civil Service Subcommittee on the Governmental Affairs full committee, I intend to move quickly within the next 2 weeks on legislation for Defense Department civil servants. My legislation would attempt to mitigate the unpleasant scenario of layoffs by creating vacancies in the civilian work force through retirement incentives and job retraining to prepare those workers for employment outside the Defense Department.

Mr. President, I would like to have a list of the membership of our task force printed in the RECORD. I ask unanimous consent that a list of our task force membership be printed at the appropriate place in the RECORD.

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

MEMBERS OF DEFENSE TRANSITION TASK FORCE

(Appointed by Majority Leader Mitchell on March 3, 1992)

Senator Brock Adams, Washington.
Senator Jeff Bingaman, New Mexico.
Senator John B. Breaux, Louisiana.
Senator Alan Cranston, California.
Senator Christopher J. Dodd, Connecticut.
Senator Bob Graham, Florida.
Senator Ernest F. Hollings, South Carolina.
Senator Edward M. Kennedy, Massachusetts.
Senator Carl Levin, Michigan.
Senator Howard M. Metzenbaum, Ohio.
Senator Barbara A. Mikulski, Maryland.
Majority Leader George J. Mitchell, Maine.
Senator Sam Nunn, Georgia.
Senator Claiborne Pell, Rhode Island.
Senator David Pryor (Chair), Arkansas.
Senator Donald W. Riegle, Jr., Michigan.
Senator Charles S. Robb, Virginia.
Senator Jim Sasser, Tennessee.
Senator Paul S. Sarbanes, Maryland.
Senator Timothy E. Wirth, Colorado.
Senator Harris Wofford, Pennsylvania.

Mr. PRYOR. Mr. President, I ask unanimous consent that a list of those experts to whom we listened over those weeks, and portions of our task force report, be also printed in the RECORD at the appropriate place.

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

LIST OF SPEAKERS FOR DEFENSE/ECONOMIC CONVERSION TASK FORCE BRIEFINGS

Overview Briefing

Ed Knight, Economic Adjustment and Conversion issues, CRS.
Andrew Mayer, Base Closure issues, CRS.
Gary Pagliano, Defense Industrial Base issues, CRS.
Jeff Hornbeck, Regional Economic Adjustment issues, CRS.
Jack Moteff, R&D issues, CRS.
Ann Lordeman, Job Training and Location Assistance issues, CRS.
Kitty Gillman, Office of Technology Assessment.

Group I (Worker/Community)

Displaced Defense Workers: Transition Issues

Edward Gleiman, Staff Director of Subcommittee.
Barry Holman, GAO National Security and International Affairs Division.
Bruce Moyer, Legislative Council for Federal Managers Association.
Beth Moten, Leg. Director for American Federation of Government Employers, AFL-CIO.
James Sommerhauser, Pres. International Federation of Professional and Technical Engineers, AFL-CIO.
Alan Reuther, Leg. Director United Auto Workers.

Private Sector Retraining Issues

Dr. Anthony P. Carnevale, Exec. Director of Institute of Workplace Learning at the American Society for Training and Development.
Peggy Taylor, Associate Legislative Dir. AFL-CIO.
Calvin Hines, AFL-CIO.
Peter Mannella, NY State Dept. of Economic Development and NY State Defense Task Force.
Matt Kane, Staff Economist Northeast-Midwest Institute.
John Lederer, Senior Policy Analyst at Human Resource Policy Studies at National Governors' Association.

Existing Federal Programs

Paul Dempsey, Deputy Director of Office of Economic Adjustment, DoD.
Jim Van Erden, Administrator of Office of Work-Based Learning, DoLabor.
Bob Colombo, Director of Title III, DoLabor.
Steven Brennen, Acting Deputy Asst. Sec. for Program Operations, Economic Development Administration, DoCommerce.

Don Patch, Office of Community Planning and Development, DoHUD.

Mary Lukens, Assoc. Deputy Administrator for Business Development at Small Business Administration.

David Witschi, Director Economic Adjustment Division Economic Development Administration DoCommerce.

Base Closings: A Health Care Crisis for Military Retirees

Chris Jennings, Deputy Staff Director, Special Committee on Aging.

David F. Burrelli, CRS, Foreign Affairs and National Defense Division.

Bob Goldich, Foreign Affairs and National Defense Division, CRS.

Rick Storey, Project Leader, Joint Services Group on Health Care Initiatives for Non-Catchment Areas, DoD.

Ron Stephen, Co-Chair of Hospital Subcommittee of Carswell AFB Reuse Task Force.

Repositioning Military Personnel in Civilian Settings

Mary Smith, Education and Public Welfare Division, CRS.

Fred Pang, Professional Staff, Senate Armed Services Committee.

Maj. Bill Crews, Office of Assistant Secretary for Veterans Employment and Training, DoLabor.

Jim Pirius, Director, Federal/State Relations, Florida Education Department.

Group II (Industrial/Technical)

Technology Application and Industrial Expansion Services

Walt Plosila, Head of Montgomery Co. High Technology Council.

Jack Russell, V.P. of Michigan Industrial Tech. Institute.

Joe Houldin, Director of Delaware Valley Industrial Resource Center.

Dr. Robert White, Undersecretary of Technology, DoCommerce.

R&D Policy and Labor Adjustment

Erich Bloch, Distinguished Fellow at the Council on Competitiveness.

Craig Fields, President and CEO of MCC.

Jacques Gansler, Senior V.P. of TASC.

Dr. Roger Nagel, Operations Director of Iacocca Institute at Lehigh U.

Dr. John Alic, Senior Associate at Office of Technology Assessment.

Trade Assistance, Tax Incentives, and Capital Costs

Dr. Gary Hufbauer, Visiting Fellow, Institute for International Economics.

Robert Kuttner, Economics correspondent for *The New Republic*.

Dr. David B.H. Denoon, Prof. of politics and economics at NY University.

Dr. Ian M. Ross, Chairman of the Nat'l Advisory Committee on Semiconductors.

Julie Gorte, Project Manager with Office of Technology Assessment.

Corporate Diversification/Conversion

Jack Nunn, Senior Analyst with Office of Technology Assessment.

Calvin C. Coolidge, Director of D.C. office of Texas Instruments Defense Systems and Electronics Division.

Harvey Kreisberg, Director of Corporate Development for AIL Systems.

James A. McDivitt, Senior V.P. of Rockwell International.

Proposals for Defense Transition

House Science, Space, and Technology Committee

Skip Stiles, Legislative Director.

Robert Palmer, Senior Policy Coordinator.

National Commission for Economic Conversion and Disarmament

Dr. Greg Bichak, Executive Director.

House Armed Services Committee

Larry Smith, Councilor.

Bill Andahazy, Professional Staff.

Chris Aldridge, Professional Staff.

Defense Budget Project

Peter Schmidt, Economic Policy Analyst.

Carol Lessure, Outreach Coordinator.

State of New York

Amy Mall, Legislative Assistant.

SENATE DEMOCRATIC TASK FORCE ON DEFENSE/ECONOMIC TRANSITION—EXECUTIVE SUMMARY

LOOMING DEFENSE/ECONOMIC CHALLENGES

America is headed into defense spending cuts, job losses, and industrial disorientation—and the Administration is asleep at the wheel. No plan for transition exists. No strategy for reinvesting our resources for the future is in the works. Worst of all, the Task Force documented important areas in which executive departments have hindered defense transition initiatives.

No planning. No strategy. No leadership. And, as a result, no action.

"Change is Needed", was the message the Task Force heard in testimony from over 60 experts from the defense industry, labor unions, state and local governments and action groups, and Federal agencies. Research by the Office of Technology Assessment, Congressional Research Service and the General Accounting Office further emphasized these conclusions and added that problems facing us today will grow in the years to come.

The outside experts painted a somber picture that was also a call to action:

Defense cuts that will range from $50-$200 billion over the next five years means up to 350,000 defense-related jobs will disappear annually, totalling up to 1.4 million jobs by 1995.

Thousands of U.S. companies reliant on Pentagon contracts or subcontracts, must reorient or reduce.

Hundreds of American communities will suffer as military bases and defense plants begin to close or downsize this year.

Defense-related economic dislocations will be magnified by a recession-weakened economy, chronic unemployment, soaring personal and corporate debt, and the export of U.S. manufacturing and technical know-how overseas.

REINVESTING THE PEACE DIVIDEND

Several themes repeatedly emerged in the testimony the Task Force received from outside experts. These themes serve as useful guidelines for considering options for action:

(1) Focus on economic growth/job creation—make investments today that pay dividends in America's future.

(2) Use and improve successful, needed programs—do not create new government bureaucracies.

(3) Take actions this year that steer us toward a long-term strategy for transition into the post-Cold War economy.

Task Force briefers identified three areas to focus its attention.

The first is dislocated military and civilian workers who will need help reinvesting their talents and expertise in productive non-defense jobs.

Second are defense-dependent communities that can benefit from programs to help them plan for the defense downturn and to take action that will allow the community to grow in new directions.

And finally, defense-dependent companies—especially the more agile small to midsize firms—can be given incentives to reorient, diversity and become engines for new job creation and economic growth through a number of enabling government actions, programmatic reforms and a view toward long-term investments.

A DEMOCRATIC PLAN OF ACTION

Americans support investing part of the peace dividend in programs and reform that will build a foundation for a stronger domestic economy. The Task Force recommendations answer this call for change and a new direction. Some of the recommendations are:

I—Reinvest defense workers in non-defense jobs

Help DoD military and civilian employees and defense industry workers make a productive transition that benefits the worker and the economy.

Retrain defense workers to become productive in new areas.

Make government worker assistance programs work better.

Incentives for soldiers and sailors to go into public service (education, health, etc.).

Create incentives for DOD civilians to find new work.

II—Help communities rebound

Emphasize the importance of planning assistance for defense-impacted communities by expanding the Office of Economic Adjustment.

Light Administration efforts to kill community economic recovery grants and expand the Economic Development Administration, which helps communities adjust to change.

Revive SBA small business loan program designed to help local businesses in transition.

Cushion the blow to school districts near base closings with extended impact Aid.

Review tax incentives to spark development in defense-impacted zones.

III—Industrial diversification, economic growth, and job creation

(A) Provide Businesses with Marketing, Manufacturing, and Technical Assistance

Help companies diversify and find new markets through "manufacturing extension services"—similar in concept to agricultural extension centers.

Support use of advanced technologies by businesses through Regional "Technology Alliances".

Encourage fast and flexible response for industry transition through grants for state and regional industrial services.

Help companies find civilian markets abroad.

(B) Invest in Technology and Research with Long Term Civilian Pay-offs

Fund and support long-lead research of potential commercial technologies (activities in DoD, Commerce, NASA).

Fund dual-use research projects in DoD that have military and commercial payoff.

Set aside more research funds to give incentives to small business innovation.

Redirect defense labs toward helping the civilian economy.

Support tax policies that encourage businesses to grow.

TRANSITION COSTS/BENEFITS

Many changes endorsed by the Task Force have no cost. For instance, increasing small business research set-aside requirements would require no new funds but would set aside up to $500 million more for small enterprises. The same would hold for earmarking

certain national laboratory funds for industry coordinated research efforts.

Where increased funding is recommended, sound investments to help today's defense-dependent human, community and industrial resources and will pay dividends for years to come. Such investments today can help set the stage for a sustained economic recovery.

Although many of the Task Force recommendations will need further development during the coming months, the Task Force has made a preliminary cost estimate of $1.2 billion for all specific program spending elements. The Task Force plans to continue working with the relevant Senate committees and experts to develop specific funding recommendations.

Finally, it should be noted that, understandably, many of the defense transition programs recommended for increased funding and emphasis are located outside the Defense Department. The Task Force is encouraged that many of these programs can be funded using Defense funds for fiscal year 1993 only. The process of moving this package forward will require cooperation between numerous committees, the Senate Republican leadership and finally, the White House.

In future years, the Task Force strongly recommends that funding and any control over transition programs that should be located in non-defense agencies be transferred to those agencies.

TOWARD THE FUTURE

This report emphasizes the need for comprehensive planning as we reduce our defense spending. The Task Force recommendations are meant to set in motion immediate, realizable action that will lay a foundation for future efforts to bend growing defense transition challenges into economic expansion and opportunities. Further defense cuts, the shape of the economy, budget law changes, and changes in political leadership could alter the way we can deal with transition issues.

SENATE DEMOCRATIC TASK FORCE ON DEFENSE/ECONOMIC TRANSITION, MAY 21, 1992

I. REINVESTING DEFENSE WORKERS

Summary Findings

According to the Office of Technology Assessment (OTA), roughly 6 million people were employed directly or indirectly in national defense jobs in 1991.

By 1995, 1.4 million defense employment positions will be eliminated at a rate of up to 350,000 per year.

Department of Defense (DOD) military and civilian employees, Department of Energy (DOE) nuclear weapons complex civilians, and defense industry workers will be affected by the reductions in national defense spending.

The Administration took over a year to release $150 million from FY90 DOD funds to the Labor Department for defense worker adjustment services (Defense Conversion Adjustment Program—"DCA").

To date, the Labor Department has released only $22 million of the $150 million, which will expire on September 30, 1993.

Recommendations

A. Fund worker adjustment for peacetime

1. Existing Labor Funds: Continue DCA Program by extending the current obligations of $150 million through fiscal year 1997.

2. Urge the Department of Labor to promote and implement demonstration project grants, especially for in-house retraining by defense firms who are seeking to diversify or foster dual use capabilities.

3. Supplement Labor funds: In fiscal year 1993, transfer additional funds from DOD to Labor to be used through fiscal year 1997.

B. Job retraining program improvements

1. Support the ongoing efforts of the Senate Labor Committee to improve the overall functioning of the basic worker retraining program ("EDWAA") and to ensure its relevance to the special needs of displaced defense workers.

2. Amend Title 5 so that EDWAA can be extended to workers at military installations scheduled for closure or realignment from 60 days to 12 months.

3. Require State EDWAA Managers to urge defense firm employers to provide increased communication on the status of contract terminations, program curtailment, and the end of a production line.

4. Allow States to reimburse their discretionary accounts with Defense Conversion Adjustment (DCA) funds if they have provided "Rapid Response" services to defense workers, and in doing so, contributed to the depletion of their discretionary accounts.

C. Re-orienting Department of Defense Military Employees

1. Support the proposals to provide the Secretary of Defense voluntary early retirement authority to members having between 15 and 20 years of service.

2. Encourage military personnel who retire under the early retirement program to take approved jobs in the public sector by allowing them to increase their military years of service credit by one year for each year of public service up to a total of 20 years.

3. Help military personnel get the training, education, certification, and job placement which may be required for employment in critical public service jobs, such as education, law enforcement, or medical services.

4. Support a one-year leave of absence with pay for a military employee with relatively few transferable skills to pursue courses of instruction or education either within or outside the military.

5. Provide early retirement incentives and transition benefits for reservists.

D. Assistance for Department of Defense Civilian Employees

1. Urge the Senate Governmental Affairs Committee to report legislation on how to provide the Department of Defense with the necessary tools to manage the downsizing of the civilian workforce. Options to consider include retirement incentives, annual leave accrual as retirement service credit, extended health insurance coverage, expanding DoD's Priority Place Program to include all federal agencies, and creating a toll-free information number of OPM.

2. Direct DoD to make an inventory of training programs within the Defense Department training establishment that can provide skill training for jobs in the civilian economy. Upon completion, DoD should identify which programs would be applicable to non-DoD civilian employment. Authorize DoD civilian employees facing separation through a reduction-in-force or base closing action to receive up to one year of skill training in the Defense training establishment while still employed in DoD.

II. HELPING COMMUNITIES ADJUST

Summary Findings

Currently 34 bases are scheduled for closure, 48 bases will be "realigned". Another round of base closures will be announced in 1993. In addition, many defense industry plants are suffering the effects of reduced defense spending. The OTA estimates that over 150 U.S. communities will be hard hit by defense downsizing.

The Pentagon's Office of Economic Adjustment (OEA) is the agency in charge of helping communities plan for base and defense plant closures. It has a staff of 17 and a budget of $7 million.

The Bush Administration has requested that OEA funding be cut to $4 million in fiscal year 1993.

The Commerce Department's Economic Development Administration (EDA) provides "economic devastation" grants to help communities implement their economic development plans.

The EDA has been targeted for termination by the White House since 1981. The White House slowed the released of $50 million from fiscal year 90 DoD funds to EDA until February 1992. As a result, only $100,000 in EDA funds have actually reached impacted communities to date.

Although few dollars have reached the communities, many promises have been made. The Bush Administration began promoting and committing defense-related EDA funds during the campaign season: New Hampshire/Maine in February, Texas in March, and Arkansas in April.

Recommendations

A. Office of Economic Adjustment (OEA)

1. Increase OEA staff levels and grant authority for community assistance coordination and planning grant administration.

B. Economic Development Administration (EDA)

1. Existing EDA Funds: Extend through fiscal year 1997 the spending authority on the current $50 million scheduled to expire on September 30, 1993.

2. Supplement EDA Funds: In fiscal year 1993, transfer additional funds from DoD to Commerce for EDA grants through fiscal year 1997.

3. Ensure EDA's Position: The Task Force endorses the mission of the Economic Development Administration which has the function of assisting not only defense dependent communities but also communities which experience non-defense related economic distress. The Administration should be directed to clarify and support EDA's long-term mission of providing support for distressed communities and promoting economic development.

4. Require EDA to streamline the application process and press for better coordination with the Office of Economic Adjustment in making the transition from planning to implementation assistance for affected communities.

C. Small Business Administration (SBA)

1. Preferred Loans to Defense Firms: Provide direct, low interest rate loans to small businesses adversely affected by base closings or contract terminations.

2. Government-Guaranteed Loan Program: Provide supplemental appropriations in fiscal year 1992 to ensure that adequate resources are available for such loans.

D. Department of Education

1. Direct the Secretary of Education in conjunction with the Secretary of Defense to report annually on school districts which will be adversely impacted by military base closings, realignments, and redeployments.

2. Impact Aid Grants to School Districts: Allow needy school districts impacted by base closings to receive an additional year of phased-out funding. This would be accomplished by allowing payments under Section 3 of Public Law 81-874, the Impact Aid Pro-

gram, to be based on prior year data in calculating the formulas for distribution of funds for Impact Aid. This would enable eligible school districts to receive Section 3 payments earlier in the school year and allow them to better plan annual operating budgets.

E. Tax incentives for community growth

1. Urge review of various tax incentives to stimulate economic activity in geographic areas hit hardest by the reduction of U.S. defense spending. Tax incentives should target relief for problems caused by worker displacement due to cancellation of government contracts, defense industry down-sizing, base closings, and force reductions. However, more importantly, these tax incentives should encourage long-term economic growth.

F. Environmental restoration at base closings

1. Encourage joint periodic reviews by the Senate Armed Services Committee and the Senate Committee on Environment and Public Works on the base closing policies and regulations of DoD's Defense Environmental Restoration Program. These reviews would monitor the important funding and regulatory issues that will affect base closing communities, in an attempt to accelerate environmental clean-up and ensure rapid public use of closed military installations.

III. INDUSTRIAL TRANSITION, ECONOMIC GROWTH, AND JOB CREATION

A. Industrial transition and assistance

Summary Findings

Based on some estimates, DoD outlays for goods and services could decline by as much as 48% over the period 1992–2001.

Many defense firms must diversify into commercial markets and become less defense-dependent to survive.

Small and medium sized defense firms need assistance with sales, marketing, up-to-date technology, and best manufacturing practices to make them competitive and insure successful diversification.

Programs to ease diversification, enhance industrial competitiveness, and create jobs have been under funded.

U.S. programs to provide new overseas markets are much smaller than those of our competitors.

Recommendations

1. Fund Regional and State Manufacturing Extension Services: Ease the transition of defense firms into new markets and bring the overall level of U.S. manufacturing technology up to world class standards through support of manufacturing extension programs assisting small and medium sized firms.

DoC Manufacturing Technology Centers.

DoC State Technology Extension Program (STEP).

DoD Manufacturing Extension Program.

2. Fund Regional Technology Alliances: Address common industry transition needs and encourage overall economic activity through a focus on regional industrial clusters. Fund regional efforts devoted to applied R&D, specialized training, market research, export promotion, and testbed facilities.

3. Provide DoC Grants for Regional and State Industrial Services Programs: Promote a quick and flexible response to the transitional needs of defense and other industries through support of state and regional industrial services programs.

4. Provide Trade and Export Assistance: Help defense and non-defense firms tap new civilian markets overseas by providing additional funding and technical assistance.

Increase funding for U.S. Foreign and Commercial Service.

Increase funding for the Trade and Development Program.

5. Amend DoD Recoupment Policy: Encourage defense firms to diversify and achieve a payoff for the commercial economy on defense R&D, by revising the policy requiring recoupment of R&D money spent on military technologies that are commercialized.

B. Investment in growth technologies

Summary Findings

Over the long run, investment in economic growth is the only complete solution to lower defense spending and structural economic changes.

The U.S. government spends approximately $70 billion annually on R&D, over sixty percent of it for defense purposes. As a percentage of GNP, the U.S. spends only two-thirds the amount on non-defense R&D as the Japanese and the Germans.

Economic growth depends on increased productivity, product innovation, and leadership in industries with a higher multiplier effect for the economy, all of which create higher wages.

Achieving these factors depends in large part on developing and applying critical technologies which underlie emerging industries with high multiplier effects.

Because of the significant technical risks and financial barriers involved, individual companies are either unwilling or unable to successfully develop many of these critical technologies.

It will be necessary for the government to act as a catalyst as well as a backer in some cases, of U.S. industries' efforts to develop and lead in the application of critical technologies.

Recommendations

1. Critical Technology Partnerships with Industry: Vie for leadership in the industries of the 21st century and create R&D opportunities for defense and non-defense firms through grants to industry-led partnerships developing critical technologies.

Fund DoC Advanced Technology Program (ATP).

Fund Defense Advanced Research Projects Agency (DARPA) Dual-Use Partnerships with Industry.

Support Ongoing Civilian Aerospace R&D Partnerships in NASA.

Initiate National Environmental Technologies Agency (NETA) to Fund Grants for Environmental R&D.

2. Emphasize Dual Use in DoD R&D: Within the DoD R&D budget, set aside additional funds for projects that meet significant defense needs and that have a potential for application in the civilian sector. Such projects would include environmental clean-up, energy efficiency, transportation, computer and communications technology, and others.

3. Increase Small Business Innovation and Research (SBIR) Funding: Capitalize on the resourcefulness of small U.S. companies and increase opportunities in key emerging industries by increasing the set-aside for R&D matching grants to small firms. Focus grants on critical technologies with highest economic potential.

Reorient Defense Labs: Redirect these crown jewels of the national R&D infrastructure toward national needs and assisting commercial industry, now that the cold war is over.

Industry-Laboratory Partnership Program: Establish a set-aside fund to support industry-led R&D projects.

Amend Stevenson-Wydler Act: Require "dual-use" R&D be done in partnership with industry whenever possible.

National Academy of Science Study: Commission a study to examine what role the defense labs should fill now that the cold war is over, and how the labs can best fill this role.

5. Fund AgileTech: Help establish U.S. manufacturing preeminence by funding the public-private consortium developing the future manufacturing concept known as Agile Manufacturing.

6. Extend the R&D Tax Credit: Help make American industry the most technologically advanced in the world through extension of this tax credit for research and development expenditures.

7. Provide Grants for Manufacturing Education and High Skills Retraining: Insure U.S. industry's access to the best scientists, engineers, and managers, through funding of manufacturing education programs administered by the DoD and NSF. Fund NSF administered retraining programs to high skill former defense industry employees making the transition to commercial industry.

8. Extend the Employer-Provided Educational Assistance Tax Credit: Extend this provision to encourage businesses to continually invest in upgraded skills for their employees.

Mr. PRYOR. Mr. President, at this time, I understand that Senator DODD, who is a very splendid member of our task force and contributed a great deal of time and effort and his resources to this work, is now prepared to make a statement.

Mr. President, I yield the floor.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. PRYOR. Mr. President, I yield to the Senator from Connecticut 10 minutes.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 10 minutes.

THE REPORT OF THE SENATE TASK FORCE ON DEFENSE ECONOMIC TRANSITION

Mr. DODD. Thank you very much, Mr. President.

Before the distinguished Senator from Arkansas departs the floor, let me take a moment to commend him and his staff for having done an excellent job as chairman of this task force. I thank him for conducting these hearings and listening to the experts around the country and to others who made recommendations as to how we might, in a comprehensive way, deal with the critical question of how we accommodate ourselves to the remarkable changes in our world.

This would not have happened without Senator PRYOR's leadership and determination. It is a comprehensive report that was done very expeditiously. And certainly, while the 20 of us who served as members would like to believe we made a positive contribution, the greatest contribution was made, in fact, by the chairman of this task force, and my compliments go to him.

Mr. President, my colleague from Connecticut [Mr. LIEBERMAN] is here on the floor and I presume he will be shortly making some remarks as well. I look forward to his perspective. Mr. President, there is the old story about the preparation of bacon and eggs in the morning. In terms of involvement and commitment in the preparation of bacon and eggs, it is often said that the chicken is involved, but the pig is truly committed.

Mr. President, on this issue of defense conversion and diversification, there are other Members here who are involved in this issue, and we are thankful for that involvement. But as for my colleague from Connecticut and I, and those from Rhode Island and California and other States where defense production is such a critical part of the economy, believe me when I tell you we are committed to this issue. Our economic survival depends in no small measure upon what happens with defense conversion and diversification.

Defense issues in Connecticut, Mr. President, date back over 200 years. Before we were called the Constitution State, we were called the Provision State. Our contribution to this Nation's national security is literally as old as this Nation, and we are deeply, deeply proud of that in Connecticut.

We are today one of most dependent States on a per capita basis, on defense contract work. The jet engines of Pratt & Whitney, the helicopters from Sikorsky, the propeller systems from Hamilton Standard, the radar systems from Norden, the submarine construction facilities of Electric Boat Division of General Dynamics, the tank engines from Textron Lycoming—all those companies and more, are major players. There are literally hundreds of small manufacturers, suppliers, and subcontractors to the larger corporations in the State.

So for those who were not familiar with Connecticut and only associate it with the insurance industry or the like, our contribution to the national defense may come as a surprise. But it is no surprise to the thousands of working men and women across the State who owe their livelihoods to the defense industry.

So we are deeply, deeply interested in whether or not we are going to be able to play a constructive role in seeing to it that our workers in these defense plants, in these small manufacturing operations, are going to be able to get some kind of help in order to move from defense contract work to civilian work.

So I am deeply, deeply grateful to Senator PRYOR and to the majority leader for putting together this task force to help us think through how we might make that conversion.

Let me point out that this is not a new issue for me, Mr. President. I would tell you that 13 years ago, the late Congressman McKinney—the Congressman from Fairfield County, CT—and I introduced in the House of Representatives a proposal to assist communities and companies and workers to overcome the post-Vietnam-era drawdown.

That was not at the end of the world war; it was at the end of a dramatic buildup during that conflict. And we felt we should try to make some conversion and diversification efforts. We did not succeed in that effort. There was little or no interest 13 years ago in those questions. I am glad to say that is no longer the case. In fact, there is a deep interest in how we might assist these individuals, companies, and communities, such as we feel in Connecticut.

We have lost 160,000 jobs in my State in the last 36 months, and no small percentage of those jobs have been lost in the defense-related areas. So it is a matter to which we are deeply, deeply committed. We want to assist our State and, of course, other communities around the country that are faced with these overwhelming decisions.

Mr. President, the welders, pipefitters, carpenters, designers, engineers, all the people who work in the defense industry—these are truly the veterans of the cold war. They certainly ought not to be treated as if they were just fortunate enough to have a job and now will move on to something else.

So in this task force we started with a premise that when you talk about defense conversion, what you are really talking about is jobs—high-skilled, high-paying, high-quality jobs.

In the next 10 years, according to the Office of Technology Assessment, we are expected in this country to lose 2.5 million jobs due to defense cutbacks—35,000 jobs alone in the State of Connecticut by 1997. These defense cuts are going to rip into the very heart of our Nation's industrial base.

Listen to these statistics, Mr. President. Eighteen percent—18 percent—of America's engineering jobs are today dependent on defense spending. Ten percent of our manufacturing jobs in this country are dependent upon defense spending. And 69 percent of all aerospace engineering jobs are dependent on defense spending. That is how much of our economy is linked directly to defense production in this country.

For the workers who lose their jobs and the families they support, these cuts are going to loom very large indeed. In many regions of the country, they put at risk the very notion of the American dream.

On May 21, 3 weeks ago, we came forward with a comprehensive plan that will help retrain defense workers; inject new life into our defense-dependent communities; and provide new market opportunities for economic growth.

Two weeks ago, Mr. President, 1 week to the day after our proposal was presented to this body, President Bush came forward with his plan. We often see a lot of finger-pointing back and forth, Mr. President, but I want to commend the President. This is just the kind of thing we need more of in this country. Instead of blaming one institution or the other for what is not happening, here is an example of where the Congress comes forward with its proposal, a proposal in this area, and the President suggests his ideas, many of which are complementary. That is exactly how we ought to be facing a wide variety of issues in this country.

So I say, as a Democrat, thank you to the President for stepping forward with some ideas in this area. This participation is absolutely critical if we are going to do anything effectively in this area.

And certainly we are going to be joining along with our Republican colleagues and others. This plan is not written in marble. It has not been etched in stone somewhere. It is a set of ideas that a group of us feel will move us in the right direction. But we welcome and invite other suggestions and ideas as to how we might assist in this most critical issue.

If there is one thing we learned during these past 2 months, it is that we must take the broader view. I see the changes ahead not as a threat but rather as an opportunity—an opportunity to reassess the scope and direction of our national economic policy. A truly effective conversion policy must address the full range of economic challenges facing this country. And in my view, the recommendations of the task force do just that—they lay out the broad view.

For workers, we call for increased funding for job training funds for laid off defense workers; improvements in job training programs to make them more efficient and more accessible; and enhanced early retirement incentives and transition benefits for members of the Active and Reserve Forces.

For communities, we call for increased funding for public works projects; streamlined approval process for economic development projects; small business loans to small businesses impacted by defense cutbacks; and impact aid to school districts in defense-dependent communities.

To create economic growth, we call for a network of manufacturing centers to assist small manufacturers with off-the-shelf technology; support for regional technology alliances; increases in trade and export assistance for small- and medium-size businesses; Federal grants and Government-industry partnerships for basic research in high-technology areas; increased reliance on dual-use technology in defense procurement; a doubling in the size of the Small Business Innovation Re-

search Program; and a reorientation of the Nation's defense labs to permit private and Federal researchers to work side by side on the technologies of tomorrow.

Mr. President, I want to make it clear that as far as this Senator is concerned, I hope that Members in talking about conversion and diversification are not talking about abandoning our defense production efforts in this country. We need to maintain a strong defense structure. The world has changed, without any question, but I hope that those who are coming to the diversification or conversion issues are not suggesting, as I am confident they are not, that we can abandon defense production.

As I stand before this body this morning, there are some 36 conflicts raging across the globe, some of which may severely threaten the national interests of this country. We do not want to make the mistake that was made twice in this century to unilaterally dismantle our defense production capability.

So these suggestions are to try to accommodate those individuals and those communities and those companies who we are no longer going to need because of the changes that have occurred. But if this plan is designed to abolish our defense production capabilities or needed defense articles for this Nation, then I think we would be making a huge mistake.

Finally, I want to take a moment to emphasize the issue of export markets. I concentrated on this because I think it is so important that we try and expand export opportunities for our manufacturing base. And so we have suggested some ideas on how we might help our smaller manufacturers participate in more global markets. We only have one commercial officer for every 62 business people in Japan today whereas our competitors in France have one commercial officer for every five—and our competitors in Italy have one for every two. That is a tragic oversight, Mr. President.

That is an example of what we need to change to develop closer cooperation between the public and private sector as we try to assist our businesses to do business in other places. For far too long we have had an adversarial relationship between the public and private sector that does not serve anyone's interest.

We also have to increase public support for manufacturing. Today we have five federally supported manufacturing centers across the country. Japan, a country the size of Montana, has nearly 200 of these centers to assist its private sector in developing product lines and materiel. So they have a better advantage in global markets. We ought to give our manufacturers that same opportunity.

Let me conclude by commending Senator PRYOR and commending the majority leader and inviting other Members who have ideas to participate in this most critical debate as we try to make the economic changes to encourage growth, to put people back to work in this country.

Mr. LIEBERMAN. Mr. President, I rise to join my colleague from Connecticut in enthusiastically endorsing and supporting the work of our friend and colleague from Arkansas, Senator PRYOR, and the defense conversion task force whose report we are describing today.

I want to say personally that I was pleased to work with Senator PRYOR in the task force because this issue of defense diversification has necessarily been a priority of mine since I arrived in the Senate in 1989 and that is because, as Senator DODD has indicated, we are committed to it in Connecticut.

Between 1989, when I arrived, and this date, the world has changed dramatically, much more rapidly than we would have guessed, with the crumbling of communism. Those events have brought the issue of defense diversification to the forefront of public debate much more quickly and much more powerfully than any of us could have anticipated.

Mr. President, between the years 1979 and 1986, the United States of America waged what we may now be able to describe as the final battle of the cold war. American defense spending rose from 4.8 to 6.5 percent of GNP, the largest peacetime buildup in our history.

In fact, Mr. President, in 1989, the Federal Government spent approximately $300 billion for defense. If we adjust that figure for inflation, it represents roughly the same amount of money that we spent on defense at the peak of the Korean war in 1953 and the peak of the Vietnam war in 1968. But unlike those conflicts, the cold war was fought not only on the battlefield but also the regional conflict areas of the world. The cold war was also a war of wills and minds.

Our strategy rested on the premise that the United States must have a technological edge in order to offset either the numerical advantage or the unpredictable nature of our enemies. As such, an important part of the war was fought in the laboratories and in the factories of America. And the soldiers in the cold war, as my friend from Connecticut has said, included not only those in the armed services but those engineers and scientists and skilled workers in the defense plants across this country.

Now, in significant part due to those efforts, democratization and economic reform have emerged in both Eastern Europe and the Soviet Union, and the United States has declared victory in the cold war.

We do not need to place the containment of communism as our foremost military and spending priority. We have the opportunity now to address some of those pressing problems within our country that have been too long neglected.

Those opportunities are refreshing and they are long overdue, but we cannot forget that the actions we take to reduce defense spending will have broad and direct ramifications on our economy which has emerged naturally as our No. 1 concern today on our industrial base and on our ability to compete in the world marketplace. And, of course, they will have a profound effect on the workers and communities who have become economically dependent on defense programs.

The fact is that for the past 45 years we have made an enormous investment in our defense infrastructure, in both industrial capability and human resources. In the past, we have evaluated levels of defense spending based either on national security or budgetary grounds. But it is clear now at this stage of our history that since defense industries represent so significant a part of our industrial technological and manufacturing base, it will be essential to make these decisions on economic grounds as well or else we will risk walking away from and wasting the trillions of dollars that we have invested in our defense industrial base.

Mr. President, while our friends in Japan and Germany have been pouring capital into their civilian and industrial base, we have been pouring it into our defense base. Currently, 31 key American industries produce 15 percent or more of their output for defense-related purposes, and that represents a big piece of our overall industrial and manufacturing base.

It is also important to recognize that as our ability to compete in the international marketplace is challenged more and more, it is clearly in our national economic interests to retain and reuse the finest trained and highly skilled work force in the world—our defense workers. They are the stars of the American work force. They can and should play an important role in the peaceful economic challenges that lay ahead.

So, Mr. President, I want to suggest here that the work of this Defense Diversification Task Force is critical not just to those States in which there are many defense workers, it is really critical to the reinvigoration of our entire manufacturing technological and industrial base.

Mr. President, coming from Connecticut, of course, I know of the need to assist the transition for these workers and companies.

Throughout the cold war, as it was in the Revolutionary War and other conflicts involving our Nation, Connecticut has been an arsenal of democracy. Thousands of my constituents in Connecticut have been working round-the-clock shifts to produce the jet engines,

the tanks, the helicopters, yes and the submarines that won the cold war. All the best in the world.

Now, Mr. President, is the time for Government, business, communities of workers to pull together in order to provide an orderly, thoughtful and fair transition to the economic challenges that lie ahead. And that is where the recommendations of Senator PRYOR'S task force come in so directly and so constructively.

The task force report makes recommendations which will retain the best of our defense industrial base, retrain workers for nondefense jobs, help communities to adjust to defense cuts and base closures, and promote industrial diversification for global commercial marketplace competition. The report also sets the stage for a new, more relevant defense policy which recognizes the importance and necessity of dual-use products and technologies—those that can be used for defense and also have commercial applications.

Also very important, this report recognizes that absent economic growth and job creation, diversification is meaningless. Workers, defense workers, cannot be retrained for jobs that do not exist. And communities cannot hold out hope for businesses that will never come. This report wisely focuses on making investments today, particularly in technology, manufacturing and human capital, which will pay dividends in the future.

It is clear America will face a number of significant challenges as we move into the post-cold-war era, an array of domestic demands that require our time and attention. Those, in combination with the crumbling of global communism, say to us that our defense budget can and must be reduced.

We can do this in one of two ways. We can either cut programs, troops, and contracts without regard for the consequences of our actions, or we can protect our investment in our security, in our work force, and in our industrial base, and provide for an orderly, less painful transition to the, hopefully, more peaceful world that lies ahead.

I believe the work Senator PRYOR and his task force have done lead us down the road of that latter and wiser course.

I thank the Chair. I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

Mr. DOLE. 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. DOLE. Mr. President, is leader time reserved?

The PRESIDING OFFICER. It is.

PENDING LEGISLATION

Mr. DOLE. Mr. President, I just wanted to make note of a couple of measures that are pending in Congress that I hope we can resolve fairly soon. One is the supplemental appropriations bill, which includes money for summer jobs and aid to urban areas. It looks as though that bill has been so politicized that it is going to be vetoed and the veto sustained. But in any event we ought to get it over here and get it over with and get it done.

It has been, since the time we had the problem in Los Angeles—it has been over 30 days. It would seem to me one way to resolve the problem would be to get the supplemental passed, get the veto, get the veto sustained and then maybe before everybody forgets about what happened, we can get aid to the cities, not only Los Angeles but other cities, and also provide additional funds for summer jobs.

Second, it is quite clear now the House last night passed an unemployment compensation extension bill, but there are more than enough votes to sustain a veto. So this is another political exercise. I hope we can maybe just take up the House bill, pass it, let the President veto it, sustain the veto, and then sit down and try to work out a package which I think should include a number of things.

In addition to unemployment extension benefits which we believe can be done if we do not load it up with $3 or $4 billion of so-called reforms that are not necessary at this time, that we can include in that package repeal of luxury taxes on everything—on automobiles, on airplanes, on jewelry, furs. It was a bad idea to start with. It has put a lot of people out of work. It was aimed at the rich and hit the poor—hit the poor working men and poor working women.

Second, the enterprise zones. Instead of trying to spend billions and billions more for unemployment, why not try to create some jobs? There is a $2.3 billion package which we can pay for and will pay for, enterprise zones which, in my view, would create some opportunity instead of just extending unemployment benefits. People want a job. They do not want a benefit check, they want a job. We should also at the same time take care of the so-called extenders which targeted jobs credit, income housing, R&D. There are a number of these so-called extenders that will expire and should be dealt with by the end of this month. You can extend some up to 12 months, others up to 6 months. Again, that can be part of an unemployment extension package.

Also, it seems to me, there is another expiring provision where self-employed people can deduct up to 25 percent of their health care costs. It ought to be 100 percent. There is no reason they can only deduct 25 percent. We are prepared to raise that to 50 percent right now and pay for it if we can get cooperation from the other side of the aisle in reducing some of the burgeoning costs of the unemployment compensation bill, up to $5, $6, $7, $8 billion. We think we can get a good package of unemployment extension benefits for $2.5 or $3 billion.

It seems to me if we are going to repeal luxury taxes, include enterprise zones, do something on the self-employment deduction for health care costs, take care of the extenders and then the unemployment extension, we can put together a package and pay for it. I think it would have strong bipartisan support. There may be one or two other matters that I have not focused on, but it seems to me we ought to get it done certainly before the end of the month.

I want to pledge to my colleague, Senator BENTSEN, chairman of the Finance Committee, and the majority leader and others that if they are willing to sit down and work it out on a bipartisan basis, we are prepared to do that. If not, let us just continue the political game. Let the Democrats pass the bill, any bill they want, get it out of here, get it downtown, the President will veto it, we will sustain the veto, and then we will sit down. But all that takes time. If we want to take 2 or 3 weeks on partisan posturing, then that is up to my colleagues on the other side.

I reserve the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. Under the previous order, the President pro tempore has 1 hour.

Mr. BYRD. Mr. President, so that other Senators will not come to the floor expecting to speak at 12:20, I ask unanimous consent that I may have an additional 20 minutes.

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

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. BYRD. Mr. President, within the next few days, the Senate will debate Senate Joint Resolution 18, a constitutional amendment to balance the Federal budget. The chief sponsor of the amendment is our friend and colleague, Senator PAUL SIMON.

I have listened this morning with great interest to the comments of Senator SIMON and other Senators. Senator SIMON is right when he says that

these continued high deficits are eroding and will eventually snuff out our ability to invest in our own industries, build up our manufacturing base, and save American jobs.

But even if we pass this constitutional amendment, Mr. President, we will still need implementing legislation to execute a plan to get the deficits down.

We will have to negotiate the details and fill in the blanks in order to make any constitutional amendment worth the paper that it is written on. There is no guarantee that that plan, which will have to be a byproduct of negotiations with the White House, will endorse investments in this Nation. I have been fighting that fight for years. I fought that fight at the budget summit in 1990. I can tell Senators that trying to get this White House to endorse investments in America is like trying to get blood out of a turnip.

On the issue of investing in America and in American industry—even if this constitutional amendment is adopted by the Senate and comes back from the conference between the two Houses, the conference reports are adopted in both Houses, the proposal is sent to the States, and the States ratify the amendment by the required three-fourths majority—we will still need a plan that endorses that principle.

We will still need a President who understands the relationship between these long-term investments and our national productivity. Without a consensus on the need to make these investments, I do not see us making them, deficit or no deficit. And if this amendment is adopted and the President claims he has the authority to use the line-item veto and the authority to impound funds, I see the very programs that invest in our infrastructure and in our people as the first on the chopping block.

Mr. President, the matter of a constitutional amendment to balance the budget is a question that has been before the body in earlier years. In 1982, I voted for a constitutional amendment to balance the budget; in 1986, I voted against a constitutional amendment to balance the budget.

I am opposed to the Simon amendment. The momentum that has recently developed for such an amendment is such that it has lately become the conventional wisdom, fostered in the news media and elsewhere, that it will be only a matter of a few weeks until Congress adopts a balanced budget amendment. It has become virtually a foregone conclusion that the proposal of such an amendment to the States and their ratification thereof is an open and shut case.

Mr. President, I would have to say that at this time this vote in both bodies is too close to call. But I continue to have faith in the Congress, faith in both bodies, the House of Representatives and the Senate, that there is the courage to resist the easy course and the courage to do the right thing for the country.

The two most recent occupants of the White House, President Reagan and President Bush, have preached the doctrine of a balanced budget amendment to the Constitution so incessantly that the American people have overwhelmingly succumbed to the siren call and have come to believe that such an amendment will, indeed, cure all of our deficit woes, and their elected representatives in both Houses have become so enamored with the idea and with the polls, that we may, in fact, be in real danger of witnessing the adoption by Congress of such an amendment.

I view the forthcoming vote in the Senate on this constitutional amendment as the most far-reaching of any vote that I have cast in my career. I have been on this Hill since January 1953. I was in the other body 6 years and I am in my 34th year here in the Senate, so I have been on this Hill 40 years. I am in my 40th year.

Having cast more votes in the Senate than has any other Senator in the 204-year history of the Senate, I indeed view this vote with profound gravity.

Such an amendment has a bewitching attraction. It is so simplistic in its appeal. There is no pain, no sacrifice spelled out in the amendment. It does not cut one penny from any program of interest to any special interest group, nor does it raise one thin dime in taxes or other revenues. So politically, it sounds like a great idea. We can all go home and tell our people that we have finally solved the problem; we have voted for a constitutional amendment to balance the budget. We can then relax and enjoy the political rewards of having done something which, for the time being, should please most people and displease only a few. It is almost a cinch as a political plus for the near term. Perhaps, for those who sincerely believe that such an amendment is the solution to our budget problems, their conscience would be clear. As for Presidents Reagan and Bush, by the time the amendment kicks in, they will not be around to reap the whirlwind from the seeds they have sown, nor will some of the current Members of the House and Senate.

Some Senators say nothing else has worked, so, why don't we just go ahead and try amending the Constitution. We heard that said on this floor this morning. It will force us, as President and as Senators and Representatives, to face up to the problem and do something. Our backs will then be against the wall, they say, and whereas, heretofore, we have lacked the spine to cut programs and raise revenues, the Constitution will then say, "You have got to do it. Do it." So will the people, and it will then be easier politically to cast the tough votes because we can all say that the Constitution forced us to cut programs and raise taxes. So goes the scenario.

Mr. President, I suggest that we had better stop and think more than just twice before we go down that road. First of all, we are talking about amending the basic organic law, which is the foundation upon which our Government rests. We are not just passing another statute, a statute which can be amended or repealed by the same Congress or even in the same year in which the statute was enacted. The Constitution cannot be amended with such ease, nor can an amendment, once enshrined in the Constitution, be repealed overnight. Once it is welded into the Constitution, it will be there for a while, during which time great damage will have been done. Congress can pass a statute and place it on the President's desk within a few days, if there is an urgency to do so. The same statute can, likewise, then be repealed within a few days by Congress and signed by the President. But when we tamper with the Constitution, we are talking in terms of years, not days. Mistakes are not easily erased, nor unfortunate results so quickly and completely eradicated.

"We must never forget that it is a Constitution we are expounding," said Chief Justice John Marshall, in McCulloch versus Maryland. My own modest footnote would be: Let us not forget that it is a Constitution we are amending.

Like the line-item veto, which has been so fervently sought by both President Reagan and President Bush, a constitutional amendment to balance the budget is just another quick fix. If I may paraphrase Abraham Lincoln: We do not need to fool all of the people all the time; we only need to fool most of the people for now and get by the next two or three elections. By the time the people really learn that they have been conned, it will to too late. Someone else will then be in office, and they will get the blame.

As I have indicated, there are some Members of the legislative branch who sincerely and conscientiously believe that a balanced budget amendment is the elixir to our budget ills. But our children will not think so. Our children and grandchildren, who are not here to vote on this amendment, will not rise up and call us "blessed." As for those of us who, in our hearts, have serious doubts about this approach, or those of us who believe in our own hearts and minds that this amendment will not work and that it will do serious damage to our constitutional system of government, damage the Constitution itself, and damage this institution, we will have knowingly perpetrated a hoax on the people. Our children and grandchildren will see us for what we are: emperors without "clothes."

The truth of the matter is—and the President and all Senators know it—we do not need an amendment to the Constitution in order to balance the budget. The President and the Congress presently have the power to do this; we only lack the political courage to bite the bullet. Why don't we just do it? We can. Why don't we tell the American people the truth? We ought to. The American people have little faith in their Government these days—perhaps less than ever before. The main reason is, we politicians, from the President on down, don't want to tell the people the truth. Why? For the same reason that we fear to go to the dentist—it will hurt. We do not want to take any actions that may cause us to lose some votes. We tell the people only what they want to hear. But I believe that the American people, once they are informed, can see through all of this.

I hope, Mr. President, that we will debate this long enough that the American people will indeed be informed. The American people know when they are being lied to.

It might surprise the President and the Members of this body if we would just tell the people the truth and take the actions that are needed now to bring our budget deficits under control.

Mr. President, the days of quack medicines and vaudeville are really not yet in the past. Voodoo economics, voodoo constitutionalism, and voodoo journalism are the order of the day. But there is a judgment day coming. It may not get here for a little while, but we are leaving a sad legacy for our children and grandchildren and the future of this Nation.

During the Reagan years, the people heard the President's "feel good" messages. "What of today, Mr. President," we asked. "Oh! Today, everything is just fine. It is good morning in America. Feel good, there really is a free lunch," was the daily handout from the Oval Office. "Thank you, Mr. President," said we the people with grateful hearts, and we went on merrily, using the nation's credit card, mortgaging our children's future, and living for today at the expense of tomorrow. That same "feel good" message is still coming out of the Oval Office. The only thing needed now, in order to waft us happily into an Alice-in-Wonderland world, is to adopt a balanced budget amendment.

The President called a news conference one evening last week, and he mentioned a constitutional amendment to balance the budget around 20 times—by my count 23. It has become an article of faith for the White House in the Reagan and Bush administrations. Not since Caligula, the Roman emperor who reigned between 37 and 41 A.D., decreed that his favorite chariot-stud horse, Incitatus, should be given a stable of marble, a manger of ivory, and be made a consul, has such deference and misplaced affection been so misdirected, as we now see in the fanatic worship being lavished on the constitutional amendment to balance the budget.

I see the President almost every day on television on the evening news expounding the virtues of this balanced budget amendment. Mr. President, to me it is an indication that this White House is utterly devoid of ideas when it has to play back this old siren song about a balanced budget.

What a pity! Harry Truman used to say, "The buck stops here." The current administration passes the buck, exhorts Congress to pass a constitutional amendment to balance the budget, and says, "We will grow our way out of the deficits." Reagan said the same old thing over and over, but we did not grow our way out; we only dug ourselves deeper and deeper into the budget deficit hole.

The President says, the States have it; it works for them; let us have it for the Federal Government.

I heard Senators on this floor just this morning say the States balance their budgets; why don't we? The fact is, the States really don't balance their budgets. The fact is, the States do not themselves balance their budgets. They have the Federal Government's help.

You will hear former Governors in this body who will claim that, "Well, when I was Governor, we balanced our budget. We either had a constitutional or a statutory requirement that we balance our budget, and we balanced our budgets. Why can't the Federal Government balance its budget? What we need is a constitutional amendment to make it a balanced budget."

I saw just yesterday—I believe it was on television—the President with a group of State legislators down at the White House. He is trying to marshal their support. Well, I am a former State legislator. I was in the House and Senate of the West Virginia Legislature. I know a little bit about the so-called balancing of State budgets.

The Federal Government, with the billions of Federal dollars that flow to the States, help the States in their attempts to balance their budgets.

They may brag that "we balance our budgets." Governors may brag, "We balance our budgets." State legislators may boast "We balance our budgets." Mr. President, just let this constitutional amendment be adopted, then those States, those Governors, those State legislators, will miss the flow of Federal dollars that comes from Washington directly to their State capitols—dollars that presently help them in their attempts to balance their budgets.

Cut off the stream of Federal dollars, Mr. President, and the States will be in a quandary. That flow of Federal dollars will be cut off if this constitutional amendment is adopted and the States will be required to pick up on the programs that the Federal Government is presently funding, because, if this constitutional amendment is adopted, and if it is enforced, the Federal Government will not be able to fund them. The State Governors and the State legislators had better think long and hard before they continue to advocate the passage of a constitutional amendment to the United States Constitution to balance the budget. Then, where will they go to get the dollars, the Federal dollars that presently help them in their attempts to balance the budget?

Will any former Governor stand on this floor and say that is not the case, "when I was Governor, we did not get any Federal dollars." Of course, they got Federal dollars. Is there any former Governor or legislator who is willing to stand up on this floor and say that those Federal dollars did not help us to balance our budget? Of course, they helped, and they help today.

Additionally, the States—at lease most of them—operate on two budgets: A capital budget and an operating budget. The States are, all but one, either constitutionally or statutorily required to balance their budgets, or at least balance their estimates. There is no unanimity in the wording of the various State constitutions and statutes that restrain the State budgets.

Nevertheless, while they attempt to balance their general operating budgets, some of them do not balance their operating budgets every fiscal year.

The States are in debt. Let any Senator stand on this floor, or let the President tell the American people that the States are not in debt because they have constitutional amendments, or statutory requirements that they must balance their budgets. Let any Senator, any State, challenge this statement. Let any Senator, any former Governor stand on this floor and tell the American people that the States, because of their constitutional amendments requiring a balanced budget, are not in debt.

The States are in debt. They incur bonded indebtedness. They borrow money. They borrow money for highways, bridges, canals, railroads, unemployment relief, soldiers' bonuses, prisons, hospitals, educational institutions, rural credit systems, loan funds, and so on, with bonds that mature in 10, 20, or even as long as 50 years. The States have capital budgets.

Revenues may come out of the general fund to pay the interest on the debts incurred. Some States report deficits from time to time in their operating budgets. Other States avoid operating deficits through reliance on such gimmicks as borrowing money from off-budget funds, using pension funds, for example, delaying outlays, and accelerating tax collections.

Some States issue "short-term" bonds; some States issue "intermedi-

ate-term" bonds, as part of a strategy to gradually eliminate their deficits. Others borrow from pools of money outside the general fund, defer aid to local governments, defer other outlays, and utilize asset sales.

Every State except Vermont has some type of balanced budget requirement, but these provisions vary widely in their strictness. The least severe requirement is that the Governor must present a balanced budget for consideration by the legislature. In some States, if an adopted budget becomes unbalanced in the course of a fiscal year or biennium, a deficit may be carried over to the next fiscal year.

Some States permit funds, as I say, from short-term borrowing to be counted as "revenues." And in some years, they have borrowed heavily, as I indicated earlier, from pension funds, or other off-budget funds, and have been slow in paying bills in order to keep spending in line with revenues.

Another gimmick that is used to balance the general fund budget is to shift programs off budget. That is what the Federal Government will be doing, once this amendment is welded into the Constitution. For example, at the State level, the cost of the highway patrol may be taken out of the general fund and placed in a fund that receives revenues dedicated for highways.

This is not to say that States do not make hard choices. They do. They do cut programs, and they do raise taxes in an effort to balance budgets. But again, I point out, the States look to the Federal Government in Washington for a considerable amount of money that is spent within their borders, all of which helps them to maintain programs they would not otherwise be able to continue without raising additional revenues.

When I was majority leader, I met with many Governors throughout this country. They came to Washington hat in hand, asking for additional programs, pleading for more moneys for current programs to help the States.

Governors also maintain a balanced budget, in some instances, by impounding funds. Congress, on the other hand, enacted the Budget and Impoundment Control Act of 1974, partly to curb Presidential impoundment powers, resolving a serious executive-legislative conflict that had erupted during the Nixon years. A balanced budget amendment to the Constitution could reopen the door to widespread impoundments, revive power struggles between Congress and the President, and risk shifting much of Congress' power over the purse and control over budget priorities to the President.

State governments have also found other devices to evade their constitutional or statutory limits: by way of "nonguaranteed" borrowing; borrowing through public corporations, commissions, and authorities; delegating State operations to local governments and agencies; and lease-purchase agreements. In contrast to "nonguaranteed" borrowing, guaranteed borrowing describes the "full faith" constitutional guarantees made to lenders that their State bonds and securities will be repaid through the State's general fund revenues. This is considered legally different from off-budget, nonguaranteed borrowing. In order to persuade the credit markets to accept these off-budget securities, States are often forced to pay higher interest on these bonds. Therefore, off-budget nonguaranteed debt is more costly in the long run to the State governments and more costly in the long run, consequently, to the taxpayers, than is on-budget guaranteed debt. By 1963, over half of all State borrowing was made through off-budget nonguaranteed debt instruments.

Hence, a balanced budget amendment at the Federal level would, unfortunately, not be likely to balance the budget. In fact, when the economy is in recession, or close to one, a balanced budget amendment could, and probably would, make the severity of the economic weakness even greater. Recessions are nearly always unforeseen, and they are generally not recognized until several months after they have begun. The constitutional requirement that outlays and receipts be kept in balance would likely exacerbate the economic woes of a recession and push the country into a depression by requiring that taxes be increased and programs be cut, precisely at a time when just the opposite should occur. Instead of bringing down the deficit, such an amendment could, in such times, cause greater deficits.

Mr. President, I will have more to say about this, about these words "outlays" and "receipts" on another occasion.

Mr. President, nobody really knows what will definitely happen if this amendment is adopted by the House and Senate and ratified by the people. Basically, and in a broad sense, there are two main concerns that I have with this balanced budget amendment to the Constitution. I want to see a balanced budget. I want to see it as fervently as does any other Member of this body. I want to see a balanced budget as fervently as does the President of the United States. And I share the concerns of those who look with great foreboding to the future of our country as long as we continue to run up these triple-digit billion dollar deficits.

Mr. President, my disagreement with those who support this amendment is not that we do not need to take action to bring the budget deficit under control. We do. I disagree on the approach that is being advocated. I do not believe this is the way to go, and I think we will rue the day if the House adopts a constitutional amendment, if the Senate adopts a constitutional amendment, if the two joint resolutions go to conference and differences are resolved, and the conference reports come back to these two bodies, at which time both bodies get a second bite at the apple, and then if the States ratify the amendment. Every Senator who casts a vote for this amendment, mark my word, will rue the day. That is my judgment. Other may not share my judgment, of course.

In the main, I shall state two concerns that I have with this amendment. One, if the amendment is not enforced—and I will deal with the language of the amendment on another day—if the amendment is not enforced, serious damage will be done to the Constitution, and, two, on the other hand, if this amendment is enforced, it will destroy our constitutional system of checks and balances and separation of powers that we have had now for over 200 years.

The Simon amendment does not contain an explicit enforcement mechanism. It does not say who will enforce it or how it will be enforced. It does not say who; it does not say how.

If a constitutional amendment to balance the budget is riveted into the Constitution and budget deficits still continue to go up, the faith of the American people in their Federal Constitution will be seriously undermined. If they see its balanced budget provisions being avoided, it will only be a matter of time until other constitutional articles and constitutional amendments will also be violated. If this provision can be avoided and violated with impunity, why not extend the violations to the first amendment or to the fourth amendment or to the fifth amendment or to the eighth amendment, or to others?

Think about it.

On the other hand, if to enforce the balanced budget amendment, the courts are invited into the budget process and the President is given impoundment and line-item veto powers, then what we shall see will be a massive transfer of power from the legislative branch to the executive and judicial branches. I heard a Senator this morning say, "This does not bother me. We go into the courts all the time."

Mr. President, let us think, let us think before we speak so carelessly, so thoughtlessly.

The legislative branch is the "people's branch." The very first sentence in the very first section in the very first article of the Constitution lays it out—the people's branch. Their elected representatives have the legislative powers and power over the purse. This amendment would shift the control of the purse away from the people through their elected representatives in the legislative branch, and shift it to the executive and judicial branches, and, to that extent, our representative democracy would be diminished.

Mr. President, I shall set forth the history in due time, as I did during the debate on the line-item veto, the history of how many of the provisions of the U.S. Constitution got there, where they originated, and, going back 800 years, the struggle by Englishmen, who shed their blood for many of the principles that we find today in our own Constitution.

The Framers were well aware of the struggle by Englishmen to wrest the control over the purse from monarchs and vest it in the hands of commoners. And so when we tamper with this Constitution, Mr. President, we are tampering with an instrument that has a history of 1,000 years, not just 200 years. The sentences, the phrases, the clauses in that Constitution have their roots not in 200 years of history, but in 1,000 years of Anglo-American history, jurisprudence, and constitutional law.

And yet, someone would thoughtlessly, nonchalantly say, "That doesn't bother me. We go into the courts every day." Mr. President, we have not been going into the courts on this issue.

The constitutional system of checks and balances and separation of powers, that the Framers created and that had their roots in centuries of English history, would become a thing of the past. We will proceed at great risk—great risk—if we adopt such an amendment. Either of these possible outcomes—either of them—one, if it is not enforced; on the other hand, if it is enforced, either of these possible outcomes from this amendment would entail profoundly serious consequences to the Nation.

Now, let us look more closely at each of these two possible, or even likely, outcomes to the adoption of this balanced budget amendment to the Constitution.

First, Senate Joint Resolution 18, the Simon proposal, on the surface, appears benign enough—like the surface of the Potomac which appears to be tranquil and safe, into which one may venture with confidence, smooth on the surface, while underneath, the currents flow swiftly and dangerously and they will devastate those who might thoughtlessly wade into that tranquil stream.

So Senate Joint Resolution 18 appears to be a toothless approach, a mere exhortation or expression of pious hope, with no enforcement command behind it. It says, "Total outlays of the United States for any fiscal year shall not exceed total receipts to the United States for that year unless Congress approves a specific excess of outlays over receipts by three-fifths of the whole number of each House on a rollcall vote." I will have more to say about that language on another day. Mr. President, simply saying that "total outlays shall not exceed total receipts" does not, in itself, make it happen. One might just as easily say, "There shall be a pristinely pollutionless environment by the year 2010." "There shall be." Without provisions of enforcement, the mere hortative language only creates expectations which are bound to fail of accomplishment. One of the Ten Commandments says, "Thou shalt not kill." Yet, we go on killing. In the book of Leviticus, we are told, "Thou shalt love thy neighbor as thyself." Yet, we go on loving ourselves without even knowing the name of our next door neighbor. Senate Joint Resolution 18 is not self-fulfilling. If this amendment is added to the Constitution, the American people could wake up one morning and find that nothing has changed. Then what? The seductive simplicity of the amendment is such that it will probably be ratified by the States within 1 year or 2 if Congress adopts it, but the disillusionment that would follow its failure to bring about a balanced budget would surely attach itself to the Constitution.

Oh, it may not matter much to cast an eradicable blotch upon the Constitution, a Senator may say, what is more important is that I keep my political career in place. The President has said that he would do anything it takes to get reelected; but not this Senator. If that is what it takes, I will not do it. To vote for this amendment is the popular thing to do. It is the easy thing to do. It is the line of least resistance. But I will not vote for it.

If this amendment is adopted, we will have sold a bill of goods to the American people, and they will end up with a deficit problem potentially worse than the one we now have. The current cynicism toward Government will spread like the leprosy. Where? To the Constitution!

The language of Senate Joint Resolution 18 appears to be merely aspirational—much like the preamble to the Constitution—there appears to be no operational enforcement mechanism in this amendment. It tells us what we already know, namely, that we do not want profligate spending.

Mr. President, if the constitutional amendment is not enforced, mark my words, the American people will be in for a sad awakening when they find they have been cheated again and that this is just the same old promise, namely, that we will balance the budget, a promise made over and over again by Presidents Reagan and Bush, and on which promise they and Congress have thus far been unable or unwilling to deliver.

Mr. President, Senators say, oh, we cannot—we will not ever do this. We will not do it by ourselves. What we need is something that will force us to do it. Mr. President, I will tell you what we need. We need leadership. And the kind of leadership that will be required can only come from the oval office of the White House. That is where it has to start. It has to come from the President of the United States.

Many on both sides of the aisle in these two bodies, the Senate and House, would work with the President, would stand by the President if he would demonstrate the stamina and the courage, the will power and the leadership and the vision to call us together and say: Let us do it! That is what it will take.

Of course, Congress is unlikely to do this without the President's leadership. Why? Because of the same reason that we fear going to the dentist again, it will hurt. We know that if the Congress in its wisdom should feel it absolutely necessary to raise taxes in order to bring the budget deficits under control, we know that the President, this President, would veto such a bill, and then beat us to death with a club because Congress showed the gumption and the foresight and the courage to take a tough step. So Congress is not likely to do it, unless the President goes along.

Congress does not want that kind of assault and battery that we know will surely come if the President is not on board with the Congress in taking the tough step.

So, let the President demonstrate leadership. Let him call the leadership in the Congress, in both parties and in both Houses. Let him say, "We are in this together and we are going to take difficult political steps that will bring our budget deficits under control. I am not willing to do just anything it takes to get reelected. I am the President. My name is already in the history books. There is not anything they can do to take it out. I am going to demonstrate leadership. I am not going to use a club on you. Members of Congress if you do not use a club on me. We will just lock the doors. We will work this thing out. We will all go out of the room together, and we will all walk the plank together."

The President and the Congress already have the power to take the politically difficult actions that will likely be required to balance the budget, but both the President and the Congress lack the will to do it. Why should anyone believe that merely putting a "feel good" amendment into the Constitution will give the President and the Congress any more spine than we already have? Why not just have a constitutional amendment that says, "The Members of Congress and the occupant of the White House shall have spine?" Saying it will not assure it.

The necessary steps to get the job done will still be painful after the amendment is ratified, or even more so than they are now, because, while the amendment is going through the ratification process by the States, the deficits will probably become even larger. There will still be a tendency to wait, even though the supporters of the

amendment say that, once the proposal has been sent by the Congress to the people, the President and Congress will get busy, and will make some difficult political decisions and put everything on a glide path toward the balanced budget landing strip. I do not believe that such a reading of the political horoscope is very realistic. Members who are worried about reelection in 2 years will say, "Let's do it, but not in my 2 years. Wait until later."

The amendment promises a balanced budget without providing any instructive steps as to how the goal is to be achieved. It will be déjà vu all over again. Senator A will suggest that the budget outlays for certain programs be cut, but Senator B will disagree and, in the alternative, will propose that other programs be reduced. Senator C will find himself opposed to the approaches taken by both Senators A and B. Senator X will want to raise receipts by increasing taxes on income, but Senator Y will be opposed to that approach and will suggest that the taxes be imposed instead on gasoline, tobacco, alcohol, and luxury items, while Senator Z will prefer an ad valorem tax or a national sales tax. Meanwhile, Senators M and K will adamantly object to any increase in taxes, period. We, therefore, will all agree that something has to be done, but we will not be able to agree on exactly what has to be done. Thus, we are kidding both the people and ourselves if we think that merely by attaching a "feel good" amendment to the Constitution we can, in the words of the great old song, "Just pack up your troubles in an old kit bag and smile, smile, smile."

Mr. President, what would we then have done to the fabric of the greatest Constitution ever written? We would have a Government operating outside the legitimacy of the Constitution, and that great document will then be under a cloud. Once the fabric is torn and shaken, then the structure will fall. If we should continue to have divided Government, which, God forbid, the President and the Congress will continue to avoid responsibility, and go on pointing fingers and bashing one another and prescribing the same old snake oil cures.

Now, let us take a look at the other possibility which may be in store for the nation should the amendment be grafted into the Constitution; namely, that the amendment would, indeed, be enforced.

I have the greatest of respect for Mr. SIMON. I think that he, more than any other Senator, comes near to being like Hubert Humphrey was as a Senator. I do not support his amendment, but I do believe it would be enforced if it should become a part of the Constitution.

Suppose at the end of the fiscal year following the ratification of the amendment, the Office of Management and Budget announces that the total outlays of the United States will exceed total receipts for that year, by, say, $50 billion. Suppose further that the President is advised by the White House counsel and the Director of OMB that he is obligated by the new amendment to take whatever action is necessary to bring the outlays into line with the receipts.

Suppose the President is exhorted by his advisers to use a line-item veto, even though the Constitution under which we have operated for over 200 years does not give him that authority. He could be prevailed upon by his OMB Director and his chief counsel and others that the new amendment to the Constitution inherently gives him the authority to take whatever action is needed to bring the outlays into balance with the receipts.

What will happen then to the outlays of the various departments? Will defense contracts be broken? Will checks to people who are unemployed be withheld? Will Medicare payments be stopped? Will Medicaid be cut back or eliminated? Will Social Security checks be put on hold? Will the President impound moneys that have been mandated by the Congress to be spent, even though he would be acting in violation of the 1974 Budget and Impoundment Control Act?

After all, his general counsel is going to say to him, "Oh, but, Mr. President, oh, but Mr. President, this is the Constitution, this is the new constitutional amendment. It is above the 1974 Budget and Impoundment Control Act. It is above a mere statute. We are now dealing with the Constitution."

This sounds like a sure prescription for an imperial Presidency.

The President, any President, would feel the compulsion to obey the mandate implicit in the Constitution, as amended, believing that it contained inherent authority to exercise line-item veto and impoundment authority and he would proceed to reduce outlays—thus, sharing the power of the purse that is currently vested in Congress by article I of the Constitution. He would believe himself to be authorized to cut whatever programs, whatever projects he chose to cut while leaving untouched those projects he supported, such as the space station—the sky *Titanic*—and the superconducting super collider.

By holding selected programs and projects hostage, he would be in position to suspend a Damocles sword over the heads of every Senator and Member of the House with respect to projects and matters important to their States and districts.

Moreover, he could use this leverage to bring faltering and wavering legislators into line on matters other than those affecting the budget. Confirmation votes on future Clarence Thomases and votes on future treaties would be his to collect merely by threatening to line-item veto or impound moneys concerning programs supported by certain Members of the Senate.

The President could also use this power effectively with respect to cutting capital gains taxes or achieving other cherished goals of his. Then the road would be paved for the courts to get into the act.

Yes, I heard a Senator say, "That doesn't bother me. We go into the courts all the time."

Why, of course, we do. Nobody would challenge that statement. We do go into the courts all the time, but we do not go into the courts on this question. We do not ask the courts to balance the budgets. We do not ask the courts to get into the business of determining what the outlays and receipts will be at the end of the fiscal year for the Federal Government.

We do not ask the courts to get into the business of raising revenues or raising taxes. But with the adoption of this amendment, the road would then be paved, I say, for the courts to get into the act of balancing the budget. Beneficiaries of programs arbitrarily cut back by the President's actions would go into the courts and demand that the cuts be restored. If the courts concluded that it was necessary to impose a tax in order to bring receipts up to the level of outlays, the taxpayers would have standing to apply for relief.

There are those who say, "Oh, the courts, the courts will say this is a political question. They will avoid that thicket."

Mr. President, the courts have been moving more and more in the direction of that thicket, and I would not bet one thin dime that this Supreme Court would not move with alacrity into the thicket.

Mr. President, I have voted for or against every sitting Justice on the U.S. Supreme Court. I have voted for or against every Justice, including the Chief Justice, on the Supreme Court today. And at the time some of them were placed on the Court, I was on the Judiciary Committee, and they came before that committee, when it conducted hearings on their nominations. Not once, however, did I ask any one of those Court nominees, "Where do you stand on a balanced budget? Where do you stand on balancing the outlays and receipts of the Federal Government? What would you do to bring them into line? No, not one Justice on this Court has been asked any such question during the confirmation process.

So I think we had better be careful. We had better think before we err.

Mr. President, if ever there could be a lawyer's paradise, a lawyer's utopia, the millennium would be here with the adoption of this amendment.

Montesquieu, in his "Spirit of the Laws," stated: "of the three powers * * *"—the executive, the leg-

islative and the judiciary—"of the three powers * * * the judiciary is next to nothing." That was Montesquieu.

He also said, "There is no liberty, if the power of judging be not separated from the legislative and executive powers."

I have heard the great name of Hamilton invoked today on this floor—Hamilton, who died at Weehawken, NJ, killed by Aaron Burr, the Vice President of the United States. Senators have today invoked Hamilton's name. They have also invoked Jefferson's name.

Mr. President, Jefferson was not a member of the Constitutional Convention. He was not one of the Framers of the Constitution. But as to Hamilton, he agreed with Montesquieu in the Federalist Paper, No. 78, wherein Hamilton went on to state:

> The executive not only dispenses the honors but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse * * * the judiciary is beyond comparison the weakest of the three departments of power.

The amendment on which we are about to vote within the next few days would turn Montesquieu's and Hamilton's world topsy-turvy, upside down. The judiciary would become the strongest of the three departments of Government and would then hold influence over both the sword and the purse. Constitutional government as we have known it for over 200 years, based upon the separation of powers and checks and balances concepts, would perish from the earth. The Peoples' Branch would atrophy. Representative government would no longer exist. Unelected members of the courts would wield the power of the purse. The Constitutional mandate that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law," would be changed and instead we would be treated to the spectacle of appropriations made by judicial fiat.

The American people fought one revolution over the principle of "taxation without representation," and now we are about to vote on an amendment to the Constitution which could easily result in unelected judges mandating higher taxes. If we think the people would be upset with Congress for increasing their taxes, just imagine what their feelings will be when their taxes are hiked by unelected judges who are appointed for life! Could we be sowing the seeds for another revolution by adopting this amendment? If there were ever a Pandora's box with evils imprisoned therein to bring misfortune to our country, this would surely be it. If the amendment is enforced, the powers of the legislature will flow to the executive and to the judiciary, and we will have destroyed a government of separation of powers and checks and balances. If, on the other hand, the constitutional provision is not enforced, we will have made the Constitution promise something that it cannot fulfill, and it will henceforth become a mere piece of paper, relegated to the dustbin of history.

As, I have said, no one really knows what will actually happen in the event of the adoption and ratification of a balanced budget amendment to the Constitution. But as I say, I happen to believe that if the amendment is grafted on to the Constitution, there will be efforts to enforce it, and this will mean that we no longer have a government by the people, but, instead, the people will be governed by a black-robed Office of Management and Budget, run by one Chief Director and eight associate directors appointed for life, with control over both the purse and the sword. There will be no rams' bellies by which we may ride out of this dilemma safely, and, unlike Odysseus in Homer's epic, while we may be able to escape the violent whirlpool of Charybdis, we will still be devoured by Scylla, except, unlike Homer's Scylla, which had six hideous heads bearing three rows of teeth each, ours will be a monster with nine heads bearing numberless rows of teeth each. Ours will no longer be a government of laws; instead, it will become a government of judicial fiats. Is this what Washington and his starving men at Valley Forge fought for? Was it for this that Americans shed their blood at Lexington and Concord, and at Saratoga? Was this what Nathan Hale had in mind when he gave the only life he had for his country? Did our forefathers pledge their lives, their fortunes, and their sacred honor to throw off the tyrannical hand of George III, only to be ruled by the heavy hand of a judicial oligarchy?

Mr. President, when the Constitutional Convention had completed its work in 1787, Benjamin Franklin, one of the Framers of the great document, was approached by a lady who asked the question, "Dr. Franklin, what have you given us?" Franklin answered, "A republic, madam, if you can keep it." Mr. President, this amendment carries the seeds for the destruction of the American Constitutional republic as it was handed down to us by our forefathers. I am greatly concerned about the future of this republic when I see a full court press being launched by the White House calling for the American people and the Congress to support a balanced budget amendment to the Constitution.

I see it every night. Is that all that we are being promised by the leader of the Nation—a balanced budget amendment to the Constitution? Is that all that he has to offer as a solution to our fiscal dilemma? What the country needs is bold action by the President and Congress today—not just another promise to do something years down the road.

Some members of the Republican Party here in the Senate have expressed to me privately their serious doubts with regard to the balanced budget amendment which has been reported from the Judiciary Committee and on which we will be expected to cast our votes soon. Yet, some of those same Members have subsequently told me that they intend to support the President and vote for the amendment. I know of no magic herb by which we may prove ourselves invulnerable either to the seductive charms of a "quick-fix" amendment or to the political arm-twisting emanating from the White House in support of it; I can only hope that Members will fill their ears with wax so that they will not be lured by the siren's song and will ignore the pleas until the danger is safely past.

Each of us upon being elected to the office of Senator subscribes, by oath or affirmation, to support and defend the Constitution of the United States. It is a solemn oath. We do not swear before God and man that we will support and defend a President; we do not swear before God and man that we will support and defend a political party; only that we will support and defend the Constitution of the United States. Of course, we all understand that the Constitution provides a process, in article V, for its own amendment. And while I, or any other Senator, may be willing to amend the Constitution in one particular or another, what we have here is an amendment which, for all intents and purposes, could result in the destruction of a government of checks and balances, a government of separation of powers, and undermine the Constitution we have all sworn to support and defend.

We are, therefore, talking about the very bottom bedrock of our constitutional form of government. Take away the checks and balances, which could be the result of this amendment; take away the separation of powers, which could be the result of this amendment; and then we will no longer have a government of the people, by the people, and for the people. We will have a government of three branches, in which the people's branch, the legislative, will become a mere vestigial leftover from a bygone day, shorn of its power over the purse, and no longer able to fulfill the functions for which it was created.

The PRESIDING OFFICER. The Chair reminds the Senator from West Virginia that the time has expired.

Mr. SARBANES. Mr. President, I ask unanimous consent that the distinguished President pro tempore have an additional 10 minutes.

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

Mr. BYRD. Mr. President, I thank the Chair, and I thank my friend, the

distinguished Senator from Maryland [Mr. SARBANES].

Mr. President, the adoption of this amendment will never come about with my help, regardless of who is President or what political party may be in the White House. I was the Senate majority leader when Jimmy Carter was President. Yet, I was quoted at that time as saying, "I am the President's friend, but not his man." That has been and always will be my view as to the role which I, as a Senator, should play and will play. Other Senators, of course, have a right to view their own role differently.

Mr. President, the title of "Princeps Senatus" was an honorary distinction in the days of the Roman Empire. The name of the Princeps Senatus was the name which stood first in the Album Senatorum, a list of the senate which was made public. Gibbon tells us that the title, which declared Augustus the chief of the senators, was the one that he chose among all others. Augustus was the first emperor, ruling during the years 27 B.C. to 14 A.D. The Emperor Majorian, who reigned beginning in the year 457 A.D., referred to himself, as he was being made emperor, as a prince "who still glories in the name of Senator."

As far as I am concerned, Mr. President, I personally look upon the office of Senator as the highest office in this land. In the history of the world, there have been many senates—many senates—for example, one of the first reforms put in place by Lycurgus, the lawgiver, was to create a senate in Sparta. While in the history of the world there have been many senates, I hold two of these senates the greatest of all: the Roman senate, whose roots go back to the founding of Rome in 753 B.C., and the prince of which was appointed by the legendary Romulus himself; and the United States Senate, created by the Constitution.

Mr. President, I am not assured by those who say we can avoid the intrusion by the courts into the realm of budgetmaking simply by resorting to the provision that allows a three-fifths vote to approve a specific excess of outlays over receipts. Most of those who support this provision—most of those who support this provision—are among those Senators and Representatives who will never vote for a tax increase, come what may. They will always depend upon someone else to supply the three-fifths of the whole number of each House.

What this really is, is a prescription for minority rule. This will become a Government by minority. It is a super obstacle course, if I ever saw one. In other words, two-fifths plus one Member of either body could block a tax increase intended for the purpose of bringing the outlays and receipts into balance. And if, notwithstanding, legislation should be passed by Congress to raise taxes, the President could veto it, and he would only need one-third plus one of the Members of either body to sustain his veto.

What this is saying is, when it comes to a tax increase for the purpose of balancing the budget, we will put the Government into the hands of a minority. That is minority rule; no ifs, ands, or buts about it. Are two-thirds of the Members of this Senate ready to submit themselves to this stultifying routine?

We are all deeply concerned about the budget deficits, the national debt, and the growing interest on that national debt. I want to see our budget brought into balance as much as does any other Senator or any other individual inside this Government, or outside this Government. A national debt rapidly approaching $4 trillion—and with the sky as the limit, if we do not do something to curtail it—is a terrible legacy to leave to our children. We have to do something about it, and it will be painful.

But it will be an even more awesome legacy to leave to our children and grandchildren if we destroy the foundations of our constitutional system of checks and balances, sweep away the people's power over the purse through their elected representatives in Congress, undermine the faith of the Nation in the Constitution itself, and still end up with a larger deficit than ever.

I suggest that the President sit down with leaders of both Houses and the leaders of both parties; that we tell the people the truth about what it will take to bring the budget under control; tell them that it will be painful; tell them there will have to be sacrifices. Then, we do what is necessary to bring the budget into balance. There would be political risks, but we would all walk the plank together—the President and Members of both parties in the Congress.

Let us roll up our sleeves and just do it. With a handshake and an assurance that we will not clobber one another, and that there will be no bashing between the executive and legislative leaders, we can restore the people's faith, contibute the highest service to the Nation, and look our children and grandchildren in the eye and say to them: "We are not going to make you pay for the excesses in which we of our generation have indulged."

I can then go to the mirror and look at myself and say, like Prothaonius, "It is glory enough for me that I am a man of whom my grandson need not be ashamed."

Mr. President, I am told that there is a statue in Atlanta in memory of the late Benjamin Hill, United States Senator from the State of Georgia, which bears this inscription:

> Who saves his country, saves himself, saves all things, and all things saved do bless him; who lets his country die lets all things die, dies himself ignobly, and all things dying curse him.

Mr. President, I urge that we reject this amendment when the hour of decision comes. Let us dare—let us dare—to conspire to save our country.

Mr. SARBANES. Mr. President, will the distinguished President pro tempore—is there any time remaining?

The PRESIDING OFFICER. There are 2 minutes remaining on the Senator's time.

Mr. SARBANES. Will the Senator yield?

Mr. BYRD. Yes; I yield.

Mr. SARBANES. Mr. President, I want to commend the distinguished President pro tempore for his very powerful and cogent statement.

We are preparing to address a very fundamental issue in this body—the balanced budget amendment. I feel very strongly that adding a balanced budget amendment to the U.S. Constitution will be both economically impracticable and constitutionally irresponsible. The very able President pro tempore has set out many of those reasons, and of course they will be developed in further debate.

I note that just this week, a distinguished group of law school deans and professors sent an open letter to the Members of the Congress on this very issue. I ask unanimous consent to include that letter at the end of my statement.

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

(See exhibit 1.)

Mr. SARBANES. Mr. President, I will quote briefly from this letter.

> Under this amendment, the responsibility for enforcing a balanced budget will fall upon the judiciary. We are gravely concerned with the harm certain to be done to the judiciary by requiring the courts to address fiscal and budgetary questions for which they are completely unsuitable, questions ranging from the interpretation of the amendment to the reliability of estimates of future revenues. Our Constitution wisely places the responsibility for budgetary and economic matters directly on the executive and legislative branches. If the President and Congress want to balance the budget, they already have the necessary authority.

That is exactly one of the points that the distinguished Senator made when he made reference to the discussion in the Federalist Papers concerning the allocation of power under our Constitution. The proposed allocation of the Constitution we will soon be considering carries the real risk of a massive shift of constitutional power to the judiciary, involving the Courts in an issue which they should not be addressing.

Mr. President, we will be developing this point and many others as the days proceed. I thank the very able Senator from West Virginia, the distinguished President pro tempore of the Senate, for his perceptive and eloquent critique. This issue goes to the fundamen-

tal meaning of our constitutional system, a matter which no one understands better than the distinguished Senator from West Virginia.

EXHIBIT 1

JUNE 8, 1992.

DEAR SENATOR: We are writing to express our opposition to the balanced budget constitutional amendment expected to be considered by the Senate in the near future.

We write as deans and law professors with differing political views and differing views of what needs to be done about the federal budget. We are, however, unanimous in believing that balancing the federal budget should not be done—and need not be done—by amending our nation's basic charter.

One of the great values of the Constitution is the flexibility which enabled it to serve as the legal foundation of our democracy for more than 200 years. This amendment would unwisely write a rigid fiscal policy into the document without regard to unforeseeable economic conditions.

Under this amendment, the responsibility for enforcing a balanced budget will fall upon the judiciary. We are gravely concerned with the harm certain to be done to the judiciary by requiring the courts to address fiscal and budgetary questions for which they are completely unsuited—questions ranging from the interpretation of the amendment to the reliability of estimates of future revenues.

Our Constitution wisely places the responsibility for budgetary and economic matters directly on the executive and legislative branches. If the President and Congress want to balance the budget, they already have the necessary authority. Attempting to pass a balanced budget constitutional amendment merely distracts lawmakers—and the public—from the serious, painful, long-term deficit reduction necessary to achieve sound fiscal policy.

Further, to use the Constitution to divert attention from the responsibility of the President and Congress to solve the deficit problem not only trivializes the Constitution, but undermines the honor and respect that the American people have for our basic charter.

This amendment also damages a primary constitutional principle—that of majority rule. To require a three-fifths majority to pass a budget that is not balanced—for example, when economic conditions so require—will write into the Constitution a principle of minority rule all too likely to expand into effects on the decision-making processes of government.

We believe that to elevate a balanced budget to permanent constitutional status is damaging to the integrity of the Constitution, is unwise fiscal policy and is historically unsound. We strongly urge you to oppose any effort to attach a balanced budget amendment to the Constitution.

We sign this letter as individuals; our institutional affiliations are provided only for purposes of identification, with no implication that we represent anyone's views other than our own.

Sincerely,

Barbara Bader Aldave, Dean, St. Mary's University School of Law.

Thomas B. Allington, Associate Dean, Indiana University School of Law—Indianapolis.

Michael Asimow, Professor, UCLA School of Law.

C. Edwin Baker, Professor, University of Pennsylvania Law School.

John T. Baker, Dean, Albany Law School.

John J. Barcelo, III, Professor, Cornell Law School.

Robert L. Bard, Professor, University of Connecticut School of Law.

Robert A. Barker, Professor, Albany Law School.

Stephen R. Barnett, Professor, University of California at Berkeley School of Law.

Florian Bartosic, Professor, University of California at Davis School of Law.

Robert M. Bastress, Professor, West Virginia University College of Law.

Terence H. Benbow, Dean, University of Bridgeport School of Law.

Daniel O. Bernstine, Dean, University of Wisconsin School of Law.

Donald Beschle, Professor, John Marshall Law School.

Norman Birnbaum, Professor, Georgetown University Law Center.

Boris I. Bittker, Professor Emeritus, Yale Law School.

Henry J. Bourguignon, Professor, University of Toledo College of Law.

Alan E. Brownstein, Professor, University of California at Davis School of Law.

Martin J. Burke, Dean, University of Montana School of Law.

John M. Burkoff, Professor, University of Pittsburgh Law School.

Haywood Burns, Dean, CUNY Law School at Queens College.

Robert A. Burt, Professor, Yale Law School.

Richard M. Buxbaum, Professor, University of California at Berkeley School of Law.

Burton Caine, Professor, Temple University School of Law.

Guido Calabresi, Dean, Yale Law School.

Gerard J. Clark, Professor, Suffolk University Law School.

Robert N. Clinton, Professor, University of Iowa College of Law.

David M. Cobin, Professor, Hamline University School of Law.

Neil H. Cogan, Professor, Southern Methodist University School of Law.

Robert H. Cole, Professor, University of California at Berkeley School of Law.

Archibald Cox, Professor Emeritus, Harvard University Law School.

Thomas D. Crandall, Dean, University of Toledo College of Law.

David P. Currie, Professor, University of Chicago Law School.

Melvin G. Dakin, Professor Emeritus, Louisiana State University Herbert Law Center.

Joseph L. Daly, Professor, Hamline University School of Law.

Anthony D'Amato, Professor, Northwestern University School of Law.

Robert P. Davidow, Professor, George Mason University School of Law.

Richard Daynard, Professor, Northeastern University School of Law.

Rodolphe J.A. de Seife, Professor, Northern Illinois University College of Law.

Michael DeVito, Professor, Golden Gate University School of Law.

C. Thomas Dienes, Professor, George Washington University National Law Center.

James M. Douglas, Dean Texas Southern University Thurgood Marshall School of Law.

Rev. Robert F. Drinan, S.J., Professor, Georgetown University Law Center.

Robert E. Driscoll, Dean, University of South Dakota School of Law.

Melvyn R. Durchslag, Professor, Case Western Reserve University School of Law.

Fernand N. Dutile, Acting Dean, University of Notre Dame Law School.

Peter Edelman, Associate Dean, Georgetown University Law Center.

Harold Edgar, Professor, Columbia University School of Law.

Dorsey D. Ellis, Jr., Dean, Washington University School of Law.

Samuel Estreicher, Professor, New York University School of Law.

Daniel A. Farber, Professor, University of Minnesota Law School.

Ted Finman, Professor, University of Wisconsin Law School.

David B. Firestone, Professor, Vermont Law School.

Thomas C. Fisher, Professor, New England School of Law.

John A. FitzRandolph, Dean, Whittier College School of Law.

John G. Fleming, Professor Emeritus, University of California at Berkeley School of Law.

William A. Fletcher, Professor, University of California at Berkeley School of Law.

John J. Flynn, Professor, University of Utah College of Law.

Teree E. Foster, Professor, University of Oklahoma College of Law.

Thomas Franck, Professor, New York University School of Law.

Monroe H. Freedman, Professor, Hofstra University School of Law.

Lawrence M. Friedman, Professor, Stanford Law School.

Gerald E. Frug, Professor, Harvard University Law School.

Marc Galanter, Professor, University of Wisconsin Law School.

Stephen W. Gard, Professor, Cleveland State University Cleveland-Marshall College of Law.

Walter Gellhorn, Professor Emeritus, Columbia University School of Law.

Howard A. Glickstein, Dean, Touro College Fuchsberg Law Center.

Steve Goldberg, Dean, Pace University School of Law.

Alvin L. Goldman, Professor, University of Kentucky College of Law.

Roger L. Goldman, Professor, Saint Louis University School of Law.

Abraham S. Goldstein, Professor, Yale Law School.

Stephen E. Gottlieb, Professor, Albany Law School.

Frank P. Grad, Professor, Columbia University School of Law.

Eugene Gressman, Professor (Visiting), Seton Hall University School of Law.

Elwood B. Hain, Jr., Professor, Whittier College School of Law.

Donald J. Hall, Professor, Vanderbilt University Law School.

Joseph Harbaugh, Dean, University of Richmond Williams School of Law.

Richard S. Harnsberger, Professor, University of Nebraska College of Law.

Jeremy J. Harrison, Dean, University of Hawaii Richardson School of Law.

Hendrik Hartog, Professor, University of Wisconsin School of Law.

Louis Henkin, Professor Emeritus, Columbia University School of Law.

Lawrence Herman, Professor Emeritus, Ohio State University College of Law.

Richard A. Hesse, Professor, Franklin Pierce Law Center.

Philip B. Heymann, Professor, Harvard University Law School.

Jack A. Hiller, Professor, Valparaiso University School of Law.

W. William Hodes, Professor, Indiana University School of Law—Indianapolis.

L. Lynn Hogue, Professor, Georgia State University College of Law.

Jacob D. Hyman, Professor Emeritus, SUNY Buffalo School of Law.

Stanley Ingber, Professor, Drake University Law School.

Richard W. Jennings, Professor Emeritus, University of California at Berkeley School of Law.

Yale Kamisar, Professor, University of Michigan Law School.

Katheryn D. Katz, Professor, Albany Law School.

Robert B. Keiter, Professor, University of Wyoming College of Law.

Walter J. Kendall, III, Professor, John Marshall Law School.

Robert B. Kent, Professor, Cornell Law School.

Phillip C. Kissam, Professor, University of Kansas School of Law.

John R. Kramer, Dean, Tulane Law School.

Paul M. Kurtz, Associate Dean, The University of Georgia School of Law.

James A. Kushner, Professor, Southwestern University School of Law.

Leon Letwin, Professor, UCLA School of Law.

Sanford Levinson, Professor, University of Texas School of Law.

Arnold H. Loewy, Professor, University of North Carolina School of Law.

Merle W. Loper, Professor, University of Maine School of Law.

Ann Lousin, Professor, John Marshall Law School.

Louis Lusky, Professor Emeritus, Columbia University School of Law.

Dennis O. Lynch, Dean, University of Denver College of Law.

Hugh Macgill, Dean, University of Connecticut Law School.

Joan Mahoney, Professor, University of Missouri-Kansas City School of Law.

Burke Marshall, Professor, Yale Law School.

David A. Martin, Professor, University of Virginia School of Law.

Richard A. Matasar, Dean, Illinois Institute of Technology Chicago-Kent College of Law.

Christopher N. May, Professor, Loyola Law School.

Michael Meltsner, Professor, Northeastern University School of Law.

Richard J. Morgan, Dean, Arizona State University College of Law.

Barry Nakell, Professor, University of North Carolina Law School.

James C.N. Paul, Professor, Rutgers Law School—Newark.

Andrea L. Peterson, Professor (Acting), University of California at Berkeley School of Law.

Robert Popper, Dean, University of Missouri-Kansas City School of Law.

Norman Redlich, Dean Emeritus, New York University Law School.

John W. Reed, Dean, Wayne State University Law School.

Donald H. Regan, Professor, University of Michigan Law School.

John J. Regan, Professor, Hofstra University School of Law.

Robert Reinstein, Dean, Temple University School of Law.

William Rich, Professor, University of Akron School of Law.

William Rich, Professor, Washburn University School of Law.

Rhonda R. Rivera, Professor, Ohio State University College of Law.

John C. Roberts, Dean, DePaul University Law School.

Ralph J. Rohner, Dean, The Catholic University of American Columbus School of Law.

Rand E. Rosenblatt, Professor, Rutgers University School of Law.

Victor G. Rosenblum, Professor, Northwestern University School of Law.

Thomas D. Rowe, Jr., Professor, Duke University School of Law.

Edward L. Rubin, Associate Dean, University of California at Berkeley School of Law.

David Rudenstine, Professor, Yeshiva University Cardozo School of Law.

John E. Ryan, Acting Dean, McGeorge School of Law.

Richard B. Saphire, Professor, University of Dayton School of Law.

Arpiar Saunders, Professor, Franklin Pierce Law Center.

Richard Schmalbeck, Dean, University of Illinois at Champaign-Urbana College of Law.

Peter H. Schuck, Professor, Yale Law School.

Louis Michael Seidman, Professor, Georgetown University Law Center.

Michael P. Seng, Professor, John Marshall Law School.

Peter M. Shane, Professor, University of Iowa College of Law.

Richard E. Shugrue, Professor, Creighton University School of Law.

Aviam Soifer, Professor, Boston University School of Law.

James H. Stark, Professor, University of Connecticut School of Law.

Geoffrey R. Stone, Dean, University of Chicago Law School.

Victor J. Stone, Professor Emeritus, University of Illinois at Champaign-Urbana College of Law.

Irwin P. Stotzky, Professor, University of Miami School of Law.

Peter L. Strauss, Professor, Columbia University School of Law.

Leonard P. Strickman, Dean, University of Arkansas Leflar Law Center.

Allen N. Sultan, Professor, University of Dayton Law School.

Roderick Surratt, Professor, Syracuse University College of Law.

Michael Swygert, Professor, Stetson University College of Law.

Leigh H. Taylor, Dean, Southwestern University School of Law.

Joseph Tomain, Dean, University of Cincinnati College of Law.

Jon M. Van Dyke, Professor, University of Hawaii Richardson Law School.

Jonathon D. Varat, Associate Dean, UCLA School of Law.

Sheldon A. Vincenti, Dean, University of Idaho College of Law.

Heathcote W. Wales, Professor, Georgetown University Law Center.

Burton D. Wechsler, Professor, American University Law School.

Philip Weinberg, Professor, St. John's University School of Law.

Harry Wellington, Professor, Yale Law School.

Welsh S. White, Professor, University of Pittsburgh School of Law.

Christina B. Whitman, Professor, University of Michigan Law School.

Robert F. Williams, Professor, Rutgers Law School—Camden.

Michael B. Wise, Professor, Willamette University College of Law.

Albert M. Witte, Professor, University of Arkansas Leflar Law Center.

Larry W. Yackle, Professor, Boston University School of Law.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended for an additional 20 minutes.

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

Mr. MITCHELL. Mr. President, I join my colleague from Maryland in commending the President pro tempore for the very thoughtful and persuasive statement. I hope the American people, and especially Members of the Senate and House, will heed the warnings of the distinguished President pro tempore.

Mr. BYRD. Mr. President, I thank my esteemed majority leader.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. I thank the Chair.

(The remarks of Mr. MITCHELL pertaining to the introduction of S. 2828 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. I thank the Chair.

(The remarks of Mr. COHEN pertaining to the introduction of S. 2828 and S. 2829 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

A TRIBUTE TO DEPARTING STAFF MEMBERS

Mr. KOHL. Mr. President, every member of this institution is dependent on staff. They give us information and advice. They tell us when we are right and, if they are good staff people, they tell us when we are wrong. They deal with our constituents and respond to requests for information and help. They serve, in many senses, as an extension of each Senator.

Since coming to the Senate, I have been fortunate to have an exceptionally talented group of people working on my staff. I have been particularly blessed by having a talented group of legislative correspondents. These LC's are my point of contact with my constituents. They respond to almost all of the letters that come into my office. They keep me aware of what people are writing about. They define, to a large degree, the way people in my State perceive me.

It was difficult for me, when I first took office, to trust people to discharge that responsibility. But the LC's I have had made it easier: They are bright, they are talented, they are sensitive to my concerns and my constituents' needs.

So when I was told that my entire LC crew was leaving this year, I was shocked. Some of them have been with me ever since I took office. All have been with me for at least 2 years. But I also recognize that after years of exceptional service, they deserve to finally put their own personal and professional needs first. So, as they leave, I wanted to lift the veil of anonymity

which surrounds good staff and pay just a brief tribute to each of them.

TOM MULLOOLY

Tom has been with me longer than any other LC and longer than most members of my staff. I remember Tom coming into my temporary offices on the seventh floor of the Hart Building and disguising his dismay at the working conditions he would have to deal with: Three rooms for 15 people, and 15 cartons of mail that had come in since the election and needed to be answered. But in typical Tom fashion, he did not blink or blanch; he just got down to work. And he has been working ever since.

Tom quickly demonstrated a mastery of mail and I made him my head LC with responsibility for supervising and helping the others. He mastered that too. So I gave him legislative responsibilities; actually gave is not exactly the right word—in truth he just infiltrated the legislative staff and before anyone knew what had happened he was in charge of several issues. Initially I depended on Tom to handle my legislative interests in the area of veterans affairs. He did so well there that he soon was involved in general defense policy work and staffed my effort to establish a national health registry for military personnel exposed to toxic agents during Operation Desert Shield and Desert Storm. And he was my designated staff person on the Select Committee on POW/MIA Affairs. In all those roles, Tom served me—and the people of Wisconsin and the Nation—with distinction and devotion.

Now he has assumed new responsibilities. He is engaged to a wonderful woman who is currently working for Senator CONRAD and will, when he leaves my staff, be returning to Wisconsin while she pursues an advanced degree at the University of Wisconsin-Madison. I regret the fact that he is leaving, but I am grateful for the service he has offered and appreciative of the skills he has developed. I trust they will serve him well. And I trust that we will continue our association for many years to come.

DAVID WARD

David started as an intern in my office. It was a sign of either his maturity or his naivete that even that job did not discourage him. I was impressed by the intelligence and dedication he brought to his intern tasks. And both of those characteristics became even more evident as he made the transition from intern to staff member. The characteristic which was not, unfortunately, displayed during his time with my office was common sense—a failure from which I profited greatly. David did not display common sense when he worked 12-hour days on a regular basis or when he came in on Saturday and Sunday to put in another 6 or 7 hours. But that kind of insanity was almost essential for two reasons.

First, David was uniquely committed to making sure that every constituent received a thoughtful and appropriate response to any letters they sent. While some LC's might glance at a letter, find the major issue, and then feel comfortable doing no more than order up a stock response, David wanted to deal with every nuance of every letter. If, in a detailed diatribe about Medicare, a constituent mentioned the death penalty, David wanted to make sure that the response covered both topics thoroughly, thoughtfully, and meticulously. More than anyone else I have had work for me, David realized that real people wrote those thousands of letters he read and real people would read the response they received.

But there was also a second reason for the hours David kept. He was vitally interested in issues. At first I thought I could get away with giving him control of animal rights issues, but as important as that issue is, it was not enough for David. He became something of a leading expert on health related concerns. He met with constituents, he did research, he developed ideas, he handled the kind of crisis phone calls that come in every day.

Now David is going to leave this office to return to Wisconsin to serve as the issues director for a congressional candidate. I know he will do an excellent job in that capacity and I fully expect and hope that his help will result in a victory for the candidate and a return to Washington for David.

KATEY SCHOENECKER

Katey started in my office as a receptionist. And she was wonderful in that job: She handled requests for tours, directed phone calls to the right staff people, rarely put me on hold when I called in, and was also warm and charming to the people she met. In fact, she was so good at her job out front, that I did not want to promote her when an LC slot opened up. But she was too bright to be denied an opportunity. And when she got the opportunity, she was too bright to fail to meet the new challenges she faced.

As an LC, Katey handled a variety of issues from taxes to banking to housing to environmental concerns. She bore the brunt of the outraged calls and letters that came in to protest everything from reconciliation bills to boat user fees. She always remained calm, always gave knowledgeable answers to questions, and always was interested in developing her skills and broadening her experiences. She started out working on an issue related to taxes on human-powered vessels or canoes. But soon she was working on banking reform legislation and serving as a point of contact in my office for a variety of Great Lakes issues. And all the time, she continued to serve as a stabilizing force in the office—a friend to those who needed help, a delightful companion for her fellow workers, a charming person for me to work with.

The allure of this office, however, was not sufficient to overcome the allure of a young man who courted her and married her just a few weeks ago. She and her husband are now off for Arizona where he will be involved in various campaigns while Katey goes to graduate school where, no doubt, she will end teaching her professors a thing or two about the way government really works. I know that I learned a thing or two from her, and that I will miss her.

MICHELLE ALBERS

Michelle left my office a month ago. I paid tribute to her privately then, but since I think of these four as a team, I wanted to mention her briefly here. Michelle was the quiet LC. Some thought she was shy but once you got to know her, she was neither quiet nor shy. She was a lively person with a delightfully sharp sense of humor and keen insights into the operation of the office and the Senate. I think the highest tribute I can pay her is to say that while she has been gone for a month or more now, we still miss her and think of her daily. She is now working for a village in Illinois, and that is the only way I can explain the fact that sometimes I am tempted to spend a little time in that State rather than in Wisconsin.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,943,052,137,178.98, as of the close of business of Friday, June 5, 1992.

On a per capita basis, every man, woman and child owes $15,351.04—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

RIGHTS OF THE CHILD

Mr. LEAHY. Mr. President, the organization "Perhaps * * * Kids Meeting Kids Can Make a Difference" of Vermont passed a resolution on May 4, 1992, in support of the U.N. Convention on the Rights of the Child. This resolution reminds us that if we want a se-

cure future, we must take special care of the people who will influence that future the most—the children.

Right now, countless children around the world face a day-to-day struggle for survival. At least 40,000 die each day from malnutrition or preventable diseases.

Many of those who do live to see another day spend that day suffering tremendously. The lack of sufficient food or water causes great pain, stunts growth, and makes a person more susceptible to diseases. Still worse, a lack of medicines in impoverished and war-torn areas leaves a greater number of diseases to prey upon young malnourished bodies, often leaving them disabled.

In addition to unimaginable physical agony, children in deprived areas experience emotional trauma from their own ailments and the tortuous illness and death of others around them. If we expect our future generations to appreciate the importance of peace and understanding among different cultures around the world, we must help them learn to appreciate life today.

War plays a unique role in a child's misery. Not only does it worsen all of the problems described above, but it often involves forced recruitment of children for combat.

Hardly anyone can reflect on this situation without feeling both sadness and shame. We must not suppress this feeling, but rather act on it by asking ourselves one simple question: What will we leave behind us?

As a first step, the administration should immediately submit the U.N. Convention on the Rights of the Child to the Senate for ratification. In order to make sure that this treaty amounts to more than just kind words, the administration should increase the budget requests for UNICEF and other programs which can advance the Convention's goals, produce a plan to pursue those goals in the United States, and encourage other signatories to formulate their own plans of action.

Mr. President, I ask unanimous consent to place this resolution passed by the Vermont Meeting of "Perhaps * * * Kids Meeting Kids Can Make a Difference" into the CONGRESSIONAL RECORD.

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

RESOLUTION RELATING TO THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

(Offered by "Perhaps * * * Kids Meeting Kids Can Make a Difference," of Vermont, May 4, 1992

Whereas, children in the United States and throughout the world frequently die from causes that could easily be prevented by immunization and other simple measures; and

Whereas, children throughout the world frequently lack shelter and the food and water necessary to sustain life; and

Whereas, children throughout the world often do not have access to a decent education that would enable them and their children to break the cycle of poverty and to live a better life; and

Whereas, children throughout the world may be subject to being forced to join the armed forces against their will; and

Whereas, in response to these issues and others, the United Nations convened the first World Summit for Children, which produced a document entitled "The World declaration of Survival, Protection and Development of Children"; and

Whereas, this document calls upon the nations of the world to save children of the world from disease, war, poverty and illiteracy; and

Whereas, although over 100 countries have ratified this document, the United States has not; and

Whereas, our country's fair share of the costs of helping children throughout the world could be borne by shifting funds away from military uses, a course of action made possible because of the ending of the Cold War.

Now therefore be it resolved by the "Perhaps * * * Kids Meeting Kids Can Make a Difference" of Vermont:

That President George Bush and the Congress of the United States be requested to work together to reallocate funds and take other steps necessary to fully support the World Declaration, so that our country does its part to help the kids of the world;

And be it further resolved:

That the "Perhaps * * * Kids Meeting Kids Can Make a Difference," of Vermont understand that the responsibility is in "We the People" and not in "him the President," and accordingly we pledge ourselves to do our part to start at home, with our own friends, to apply positive peer pressure to keep other kids in school and to help them live productive lives;

And be it further resolved:

That a copy of this resolution be sent to the President of the United States and Vermont's Congressional Delegation.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. What is the regular order?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has now expired.

WORKPLACE FAIRNESS ACT

The PRESIDING OFFICER (Mr. KERREY). The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 55) to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise as the author of S. 55 the Workplace Fairness Act, to explain the urgent need for this legislation.

Mr. President, a fundamental principle of our labor law is under siege. The right to strike, the workers' main protection in the collective bargaining arena, has been gutted, and it is time for Congress to act.

The National Labor Relations Act states that a worker may not be fired for exercising his or her right to strike. But at the same time, a worker can be "permanently replaced." That is a polite way of saying the worker loses his or her job.

For America's working men and women, this is a distinction without a difference.

Since 1980, this anomaly in our law has had a devastating impact on hundreds of thousands of American workers. These men and women thought Federal Law protected their right to strike, but they found out different when they exercised that right and lost their jobs as a result.

At the outset of this debate, I want to emphasize that this bill, banning the hiring of permanent replacements, actually raises a broader moral issue, and that is the real issue that we have before us on the floor of the Senate. Do we want an organized labor movement in this country? Do we believe that it is in the interest of this Nation that men and women have the right to join together in a union and collectively bargain?

That is really what is involved, because what is happening now is that when replacements are being brought in we are effectively breaking the back of organized labor.

In my 17 years in the U.S. Senate, no issue has energized the rank-and-file of the labor movement like this one. That is because the millions of men and women who belong to unions understand that under our system, if they lose the right to strike, they lose the right to bargain effectively. And without the leverage to engage in meaningful collective bargaining, unions will have lost a primary justification for their existence.

Wht does that mean for the millions of workers who do not belong to unions? There are more workers who do not belong to unions than those that do, and the answer to those who do not belong to unions is that it means a great deal—much more than they may realize.

Millions of nonunion workers in this country benefit from the minimum standards of wages and benefits and working conditions hard won by unions. It is no accident that as union membership is has declined over the past decade or more, the real wages of American workers have declined by nearly 10 percent.

Take a look at the minimum wage law. The minimum wage law does not really affect organized workers. They do not receive, $3, $4, $4.50 an hour. They are paid more under their union contracts. But the fact is that organized labor has sought and successfully brought about the change of the mini-

mum wage law in this country, and that is just one of many laws that they have had an impact on.

And were there not an organized labor movement in this country, I doubt that there would be Social Security laws; I doubt that there would be Medicare laws or Medicaid laws. I doubt, and I am certain, that there would not be any occupational safety and health laws. And I could go down the list of 50 other pieces of legislation which would not be on the statute books today if it were not for organized labor.

So this is a piece of legislation that has to do with the efficacy of the American labor movement, whether or not you believe it is good for this country, to have an organized labor movement.

In every other major industrialized country in this world there are strong labor unions, and what we are talking about here today is the effort to break those unions, to eliminate organized labor as a factor in our economy.

In short, Mr. President, this legislation presents a choice for the U.S. Senate. Do we want to preserve and protect a movement, the union movement, that has helped our Nation realize ideals of economic and social justice that are admired around the world? I believe the answer must be yes.

Let us start with an understanding of our Federal labor policy. In 1935, Congress recognized the terrible toll that labor disputes were taking on the economic and social fabric of this country. The National Labor Relations Act made clear that collective bargaining should serve as the preferred method of resolving labor-management disputes and preserving economic stability.

It was premised on the idea that if workers organized into a union, sat down at the bargaining table with management, it would be in the best interest of economic stability in this country.

The guiding principle of the NLRA was to seek a peaceful resolution of labor disputes through negotiation between labor and management. Where negotiation fails to resolve a dispute, each side is permitted to exercise peaceful self-help options—for employees, the strike; for employers, the lockout. The system depends upon a balance of economic power between the parties.

The right to strike is essential to this balance because it gives workers bargaining power. Indeed, the possibility of a strike may be the primary force driving both parties toward settlement of their contractual disagreement. This is hardly a surprise. How else could workers making $20,000 a year hope to have any leverage with multimillion-dollar executives?

For many decades, this system worked well. It is true that employers have been permitted to hire permanent replacements since the Supreme Court's decision in Mackay Radio in 1938. But prior to 1980, employers largely declined to hire permanent replacements.

They had the right up from 1938 to 1980 to bring in permanent replacements. But employers did not do that. Instead, American employers valued their workers and counted on their returning after a strike. They understood that workers do not want to harm their company. They understood that strikes are a last resort that cost workers wages and benefits, and often cause irreparable damage to families and communities.

Because the playing field was level, employers whose employees went on strike used their best leverage—they hired temporary replacements, subcontracted or transferred the struck work, operated with management personnel, or even ceased operations entirely for the duration of the strike.

But since 1980, employers have increasingly used the Mackay doctrine to hire permanent replacements. According to the General Accounting Office, employers now hire or threaten to hire permanent replacements in one out of every three strikes. And these are more than mere statistics: just ask the tens of thousands of striking workers who lost their jobs at Eastern, International Paper, Greyhound, Phelps Dodge, and dozens of other smaller companies. These men and women thought their right to participate in a lawful and peaceful strike was protected by Federal law. But they were wrong.

Different factors are cited as reasons for the alarming increase in the use of permanent replacements. Some cite President Reagan's harsh treatment of 12,000 air traffic controllers, which signalled to a new generation of American managers that it was acceptable to fire strikers.

Some blame Frank Lorenzo and the so-called new breed of employers that do not hesitate to replace a union work force.

Some blame the leveraged buyout operators that came in and immediately wanted a new work force. They wanted to terminate the contract. They wanted to terminate the pension plan.

At the New York Daily News—this is a specific example of what has occurred under this new doctrine—the owners actually advertised for permanent replacements before the dispute there even began. There was no dispute and they were hiring permanent replacements, bringing them in from out of the city, out of the State, in order to be available if there should be a strike.

As a matter of fact, I conducted a hearing in New York on that particular strike and learned that the employees never actually went on strike. They did not want to be on strike. They suddenly found themselves outside the locked doors when they had just gone down for no purpose other than to get some fresh air or to get a sandwich.

Many of these employers who have used these tactics are fast-buck, takeover artists who treat workers as just another commodity to be used up and tossed aside. They do not care how many years or decades workers have invested in loyal service to the company.

And still others cite gradual changes in our labor laws that eliminated many forms of peaceful secondary activity and made it more difficult for unions to obtain commitments of strike solidarity. These changes have tilted the balance of power between labor and management, and in effect encouraged employers to play the permanent replacement card.

There are some management consulting firms that do nothing but specialize in bringing in permanent replacements. You can hire them and their lawyers all in a package in order to break the union that represents the employees.

Now I believe that all of the factors I previously mentioned have contributed to the situation that presently exists. But whatever the explanation, the fact remains that each year, tens of thousands of employees are permanently replaced for exercising a basic right. Often—indeed, far too often—these workers have called a strike as a last resort to fight off massive cuts in health benefits or pension protections. Thus, tens of thousands have lost their jobs in a desperate, and lawful, effort to avoid losing their pensions, or their health care. And hundreds of thousands more workers have been threatened with permanent replacement, thereby fundamentally altering the balance between labor and management.

Today, striking workers face the economic death penalty of permanent replacement, forcing them to choose between their right to strike and their livelihoods. One need look no farther than the recent Caterpillar strike to assess the effect of this permanent replacement weapon. The resolve of 12,000 workers with an average of 26 years service to the company evaporated in the face of the stark choice between the right to strike and a job. The United Auto Workers—certainly one of the most powerful and respected unions in our Nation—surrendered within days of Caterpillar's announced permanent replacement threat.

By banning the use or threatened use of permanent replacements, the Workplace Fairness Act would make American workers' right to strike more than just a hollow promise.

The act is short, and makes two basic points. First, it prohibits the hiring of permanent replacements where a union engages in a lawful economic strike. Second, the act prohibits employers from otherwise discriminating against

employees who lawfully strike—this means employers may not favor or reward employees who refrain from joining a strike with special privileges or benefits because they chose to refrain.

It also is important to identify briefly what the Workplace Fairness Act would not do. The bill would not apply in nonunion settings. I want to repeat that. The bill would not apply in nonunion settings. The text clearly states that its protections apply only to employees in a bargaining unit where a union already was certified or recognized, or—based on written majority support—was seeking to be certified or recognized.

In addition, the bill would not protect strikers who engage in violent or coercive tactics that would be subject to prosecution under Federal and State criminal laws. The bill's prohibitions do not restrict an employer's ability to terminate employees for engaging in unlawful activities such as serious strike misconduct.

Enactment of this legislation is critical if we are to restore balance to labor-management relations, and to the collective bargaining process. This bill would reaffirm that the right to strike must mean more than the right to lose your job.

Opponents of the legislation have made a number of arguments that I believe are inaccurate or misguided. We will have a chance to debate these arguments in the days ahead. I welcome that debate. But at the outset, I would like to comment briefly on two key opposition arguments.

Opponents contend that the legislation will increase labor strife, by promoting longer and more frequent strikes. But, Mr. President, I must urge my colleagues to look carefully at the facts. It is the use of permanent replacements that triggers longer and more bitterly divisive struggles, by transforming a dispute about wages or benefits into one about the future of every striker's job. That conclusion was borne out by a 1989 University of Alabama study, which found that strikes lasted substantially longer when the employer hired permanent replacements. Banning the use of permanent replacements will restore balance to the relationship between management and labor, and will help foster the peaceful resolution of labor disputes.

In addition, we must remember that event if we ban the use of permanent replacements, unions would not undertake a strike lightly. Workers are never eager to forgo their wages, walk the picket line, exhaust their life savings, or strain their families financially and emotionally. Workers never welcome a strike which will tear at the fabric of their friendships and their communities. A strike is always the last resort.

Opponents of this bill also contend that it would damage American competitiveness abroad. But, again, I urge my colleagues to look carefully at the facts. Our principal competitors—including Germany, Canada, France and Japan—have long prohibited or severely restricted the use of permanent replacements. They recognize that using permanent replacements is both bad public policy and bad business.

The United States has applauded the democratic unions in Eastern Europe that played a central role in achieving social change in recent years. But it seems we do not appreciate the value of trade unionism in this country.

Permanent replacement is not an option exercised in the nations of Eastern Europe. What happened to the coal miners at the Massey Coal Co. did not happen to the coal miners in the Soviet Union. What happened to the machinists at Eastern Airlines did not happen to the shipbuilders in Gdansk. Should we not stand up for the same principles here at home that we applaud in other countries?

In closing, Mr. President, let me reiterate one key point. Depriving unions of a meaningful right to strike will be a devastating blow to the American labor movement. In considering the legislation, we must carefully consider the larger question of whether we want to destroy organized labor, or preserve a movement which has helped our nation realize ideals that others around the world justly envy. The choice is ours.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I listened with a great deal of interest to my friend and colleague from Ohio talk about the Metzenbaum bill here. S. 55 I think is grandly mistitled the "Workplace Fairness Act." It is the latest component in the legislative master plan of some of my colleagues who have dedicated their careers to overturning every Supreme Court decision that they find objectionable.

When I first heard of this particular bill, which would overturn what has become known as the Mackay doctrine, I wondered which Supreme Court Justice had written the offending decision. It must have been a real interesting Justice.

Naturally, given the level of outrage expressed by some in this body, one would assume that the misguided jurist had to be one of the appointees of President Reagan or President Bush. Perhaps Justice Scalia, or maybe Chief Justice Rehnquist?

But, in fact, the judicial offender in this instance was Justice Owen Roberts. That is correct, Justice Owen Roberts. The Supreme Court decision we are being asked to overturn was written in 1938.

Today, we are being asked to overturn a decision that was issued more than 50 years ago, a decision that has stood without challenge for more than half a century, a decision that has been accepted by successive Congresses; a decision that was made when the distinguished chairman of our committee, Senator KENNEDY, was only 6 years old. The Senator from Ohio was just 21. I was four.

It is interesting to note—in fact it is remarkable—that with all of the problems facing our Nation today—the economic challenges, the budgetary crisis, the serious problems facing our judicial system, the crisis facing our cities, our schools, and our health care system—despite all of these problems, some of my colleagues believe that it is more important for the Senate to correct what they perceive to be the mistakes of the pre-World War II era.

The proponents of this bill have summarized the thrust of their legislation in the following manner: Employees cannot be disciplined or discharged for engaging in a strike, but they can be permanently replaced.

The proponents assert that, because employers can hire permanent replacements for striking workers, employees are discouraged from striking; it is harder for unions to win strikes; it is more difficult for organized labor to shut down employers; and it causes greater economic destabilization.

Alarmed by these facts, the proponents have introduced S. 55. Its purpose is rather straightforward. Change the rules that have governed Federal labor law for the last 54 years so that unions will be able to win every time they go out on strike. Change the rules so the unions can shut down any employer whenever they want, for how long as they want, and as often as they want.

Union leaders understand that current law places risks on both management and labor during labor disputes. If employers act in a manner that employees consider unreasonable, those employees can go on strike. And, unions understand that if their demands are unreasonable and they still go on strike, employers may hire permanent replacements. It is what we call a delicate balance.

Current law, on the other hand, is based on the tried and true concept that, by making a strike risky for both sides in a collective bargaining dispute, both sides have a vested interest in finding reasonable solutions to their labor disputes. That, Mr. President, makes sense. That is current law.

Consequently, it is not difficult to understand the purpose of the legislation. Eliminate the risk for unions when they go on strike. That is the purpose. Do not have this delicate balance.

Eliminate the need for economic responsibility. You will inevitably make it easier for unions to go on strike and to win every strike. By legislative fiat, S. 55 will provide unions with what

they do not enjoy today—unrivaled economic power and control of the labor market.

Many of us in this Chamber recognize that the role of unions in the workplace has greatly diminished. Part of this has been due to economic realities. Part is perhaps due to misguided leadership in the union movement. Part of this diminution is due to a growing sophistication among employers and employees. And part is due to our efforts here in Congress, passing legislation over the years providing enhanced worker rights and protections not contingent on representation by a union.

The relationships between labor and management have improved dramatically during this century, as employers have begun to understand the importance of maintaining a positive relationship with their workers.

For all of these reasons, the AFL–CIO is no longer the economic power it was 50 years ago, 20 years ago, or even 10 years ago.

But I still tell you, it is a formidable economic power and I will tell you, as somebody who has been here 16 years, it is the single most powerful special interest group in Washington today within this beltway. There is no question in my mind about it, nor is there much question among those in either party who really honestly think about it.

No observer of this can deny that the AFL–CIO wields a lot of power in the Halls of the House and the Senate. In the past, the AFL–CIO, like the boss, controlled the agenda of the U.S. Congress. Now, while that may be a bit of an overstatement today, it is true that it still has the ability to demand that bills they want the Congress to vote on will be voted on. Thus, that is what we are doing here today. With all of the problems of this society, we have to deal with this bill today and tomorrow and probably through part of next week.

Consequently, the unions have decided that they will force Congress to change the rules that have governed Federal labor law for the last 54 years. If unions cannot win at the bargaining table like they did in the past, then they will just demand that Congress change the rules to ensure that they can win again. The AFL–CIO is demanding that we tilt the balance so far in the union's favor that they can once again force employers to accept their demands, reasonable or unreasonable, without any need for economic responsibility on their part.

Does anybody in this body—anybody—really believe that by making strikes risk-free for unions that there will not be more strikes? Does anybody believe that? If you take away the risks of striking, do you think we will not have more strikes? That boggles the mind, that someone would even make that argument.

Does anyone really believe that the solution to our current economic problems, problems compounded by the internationalization of markets and by skill shortages in the labor force, is to encourage a small percentage of the American workers represented by unions to go out on strike? Do we as a body really want to tell the American people that we have finally found the answer to our economic woes and it is to go on strike?

Today, employees have the right to strike—the ultimate collective bargaining weapon that unions can bring to bear on an employer and on an employer's business. And I will continue to fight for their right to strike. It is an awesome economic weapon which they have. I will fight for that right. But how an employer responds to that strike depends on what kind of a strike it is. If a strike is caused or prolonged by the employer's unfair labor practice, such as the failure to bargain in good faith, striking employees cannot be permanently replaced.

Let me repeat myself. If a strike is caused or prolonged by an employer's unfair labor practice, such as the failure to bargain in good faith, striking employees cannot be permanently replaced. They cannot be, under our current law. If the employer is wrong, those employees can continue to strike and cannot be permanently replaced.

In these instances, under the National Labor Relations Act, the offending employer, under our current law, is required to reinstate the strikers to their former positions and may be liable in addition to substantial amounts of back pay. That is under current law.

If, on the other hand, the strike has nothing to do with any wrongdoing by an employer and is purely over economic terms, such as increase in wages, an employer may take a variety of steps to withstand the strike, including hiring permanent replacements. That should be allowed. In these cases, strikers who have been replaced and seek to return to work would, under current law, retain their status as employees and must be reinstated as positions become available. That is current law. Even if they were wrong in continuing to go on strike and the employer hires permanent replacements, they have an absolute right to get those first positions as they become available under current law.

If the employer has done nothing more than resist the union's economic demands at the bargaining table, the law has always permitted employers to keep operating by hiring permanent replacements.

S. 55, however, would say that an employer has no such right. No matter how outrageous or irresponsible the demands of the union, if the union goes out on strike, the employer would have no right to hire permanent replacements.

The employer's only right under S. 55 is to capitulate to the union demands or hope the union returns to work before the business closes down for good.

Recognizing the absurdity of this scenario, for more than a half a century American labor law has provided both labor and management with a balanced set of rights, as it should be. Economic weapons and risks are critical elements of our national labor policy. There is no question about it.

As the Supreme Court has explained: "The presence of economic weapons in reserve and their actual exercise on occasion by the parties, is part and parcel of the system that the Wagner and Taft-Hartley Acts have recognized." That cite is NLRB versus Insurance Agents 361, U.S. 477, 489 (1960).

As Charles Morris, a leading labor law expert, has noted: "Collective bargaining evidently functions as a method of fixing terms and conditions of employment only because the risk of loss to both parties is so great that compromise is cheaper than economic strife."

Under current law, employers' demands at the bargaining table are checked by the knowledge that their employees have a most powerful weapon—the strike—a weapon that could cause loss of profits and market share and a weapon which can ultimately put that employer out of business. It is an awesome power that the unions have and, like I say, I would fight to maintain that right in the union, and I have.

Employees' demands, at the same time, are likewise checked by the knowledge that a call for a strike may be met by the hiring of so-called Mackay replacements, referring to the Mackay doctrine or the Mackay case decided in 1938. The inherent uncertainty about what will happen when both sides resort to their own weapons is an essential element in the dynamics of collective bargaining. Most importantly, it provides the strongest possible inducement for both groups to negotiate in good faith and to resolve their differences in good faith without resorting to such measures at all.

S. 55, this bill, the Metzenbaum bill, proposes to change this level playing field on which labor and management have so long operated, certainly over the last 54 years. A level playing field does not guarantee that parties bring their equivalent strength or wisdom to any particular labor dispute. Nor does it guarantee that the results of any labor dispute, or the specific terms of any particular labor contract, are what any of us individually would think were either the most fair, most reasonable, or most prudent for either side.

Congress has never established itself, or the courts, as an arbitrator to determine the terms of collective bargaining agreements. Rather, the true level playing field that is part of our na-

tional labor policy was designed to foster a balance in the legal rights of the parties. Since the protection of the right to strike gave unions an extremely potent offensive weapon, the law also gives employers the defensive weapon of continuing to operate during a strike.

It seems to me that is as it should be.

As described by former Solicitor of Labor and NLRB General Counsel Peter Nash, "the hiring of permanent replacements has long been recognized as constituting part of the legitimate self-help available to employers in a strike situation and allows the dispute between the employer and its employees 'to be controlled by the free play of economic forces.' *Machinists* v. *Wisconsin Employment Relations Comm.*, 427 U.S. 132, 140 (1976) (quoting *NLRB* v. *Nash-Finch*, 404 U.S. 138, 144 (1971)."

If S. 55 became law, it would insulate striking employees from the risks that traditionally have acted as a check on the voluntary decision to strike over economic issues and would free organized workers to command a price for their labor without regard to the market forces of supply and demand.

The Mackay doctrine, in contrast, serves as an important market check on opportunistic high demands of unions as well as on opportunistic low offers by employers.

As one expert, Prof. Samuel Estreicher, has noted in this regard, "the willingness of workers to cross picket lines and offer their services on the basis of the employer's final offer tells something about the economic reasonableness of the union's demands." Estreicher, "Strikers and Replacements," 3 Labor Law 897, 902 (1987).

The result of overturning the longstanding Mackay doctrine would be an increase in the number of strikes, and an increase in the risk of anticompetitive collective bargaining agreements.

Moreover, S. 55 would injure many nonstriking workers and their families, whose livelihoods depend on a functioning, economically viable employer. Just yesterday, the press reported that 156 editorial employees of the Pittsburgh Post Gazette were laid off on June 4 because of the continuing strike by the Teamsters Union against the newspaper's sister publication, the Pittsburgh Press. Nonstriking employees at that paper were sent home in mid-May, told there was no work.

Customers, suppliers, and consumers would all suffer the burdens of the increased strike activity and the harmful economic impact that would be generated by this bill if it is passed and becomes law.

It is amazing to me that the proponents of this measure have so conveniently forgotten about these people.

Is it fair that the economic wellbeing of these innocent people should be jeopardized when neither they nor their own employers are a party to the labor dispute that generated the strike?

Battle plans for war must carefully avoid hurting noncombatants as much as possible. The proponents of S. 55 are obviously applying a different standard to labor disputes.

This inherent attempt to put the many at risk to achieve the economic ends of the few may also explain why a recent Time magazine—CNN poll done by Yankelovich Clancy Shulman found that 60 percent of the American people opposed—and only 29 percent favored—legislation prohibiting employers from hiring permanent replacements for striking workers.

The proponents of this legislation have attempted to justify their attack on the Mackay doctrine by promoting several myths about Federal labor laws and strikes.

The first myth is a whopper. The proponents claim that the Mackay doctrine—a Supreme Court precedent of more than half a century—should be ignored, because it is only dicta. As my colleagues know, dicta refers to opinions of a judge which do not embody the resolution or determination of the Court. In other words, something that is dicta is an opinion offered by the Court which is unnecessary or extraneous to the decision itself. Its elimination from a judicial decision would not alter the holding of the Court.

Consequently, the proponents argue that by overturning the Mackay doctrine they are not really overturning a Supreme Court decision. Instead, the proponents are only taking issue with the Court's extraneous comment, or dicta.

The Mackay doctrine, which has some of my colleagues in such high dudgeon, stems from a Supreme Court decision issued on May 16, 1938, better than 54 years ago.

The case, *National Labor Relations Board* v. *Mackay Radio & Telegraph Co.*, 304 U.S. 333 (1938), grew out of a labor dispute between Mackay Radio and Telegraph and Local 3, of the American Radio Telegraphists Association.

Negotiations between the company and the union broke down, and the employees went out on strike, as they had a right to do under our laws. The company brought employees from its offices in other cities to take the places of the strikers. Subsequently, all but five of the strikers were taken back by the company.

The union filed charges with the National Labor Relations Board, charging that by failing to reinstate the five remaining strikers the company was discriminating against them on account of their union activities. The Board, among other things, ordered the company to reinstate the five with back pay.

The Supreme Court was asked to review the Board's decision, which it upheld.

One of the issues before the court was whether the Board lacked jurisdiction because the company was at no time guilty of any unfair labor practice. The Court noted that there was no evidence that the company was guilty of any unfair labor practice.

To explain its conclusion, the Court noted that the company was negotiating with the authorized representatives of the union.

Then the Court addressed the issue of whether its use of replacements was an unfair labor practice. In responding to this issue, the Court outlined what thereafter became known as the Mackay doctrine:

> Nor was it an unfair labor practice to replace the striking employees with others in an effort to carry on the business. Although Section 13 provides, "Nothing in this Act shall be construed so as to interfere with or impede or diminish in any way the right to strike," it does not follow that an employer, guilty of no act denounced by the statute, has lost the right to protect and continue his business by supplying places left vacant by strikers. And he is not bound to discharge those hired to fill the place of strikers, upon the election of the latter to resume their employment, in order to create places for them. *NLRB* v. *Mackay Radio & Telegraph Co.*, 304 U.S. 333, 345–346 (1938).

Now I realize that one person's dicta is another's doctrine, but the Supreme Court was rather clear in its holding. Nothing in the Wagner Act, the National Labor Relations Act, prohibited an employer from hiring replacements for employees who have gone out on strike, and the employer is not required to fire those replacements once the strikers decide they wish to return to work.

What was Congress' reaction to the decision? The following year, Senator Wagner appeared before the Senate Education and Labor Committee and made the following statement:

> Every step that the Supreme Court has taken toward clarifying the meaning and defining the scope of the act has made it easier for workers and employers to deal successfully under its provisions.

This is hardly a statement one would expect from Senator Wagner if the Supreme Court's opinion in the Mackay decision had been viewed from its inception as incompatible with the basic rights and values of Federal labor law.

This mistaken assertion was made by the committee majority in the report accompanying S. 55. I can only surmise that the authors of the majority report have concluded that a statement by Senator Wagner, the author of the Federal statute, made a year after the preme Court's decision, has no merit.

Perhaps they feel that the statement by Senator Wagner is also dicta.

In fact, Senator Wagner's assessment is relevant, because it underscores the fact that instead of being an aberration, the Mackay doctrine was consistent with the legislative history of the Wagner Act.

A memorandum prepared by the Senate Education and Labor Committee on S. 1958, Senator Wagner's bill, clarified the ability of employers to hire replacements. It states:

S. 1958 provides that the labor dispute shall be current, and the employer is free to hasten its end by hiring a new, permanent crew of workers and running the plant on a normal basis.

And, there is more. During the floor debate on the House version of the Wagner Act, Representative Fletcher asked whether anything in this legislation would prevent employers from bringing in "strikebreakers." The bill's floor manager, Representative Connery of Massachusetts replied:

I do not think there is. The employers' rights under the law will be just as strong and secure after passage of this act as they were before.

Consequently, instead of being dicta, representing some unnecessary, extraneous viewpoint that was repudiated from the moment it was offered, the Mackay doctrine was an accurate articulation of congressional understanding of employer rights under the Wagner Act. The Supreme Court's opinion was not at odds with congressional intent. The two were consistent.

But, let us assume for a moment that the proponents' revisionist version of history is accurate.

If the Mackay doctrine was an aberration, something far removed from the intent of Congress and the body of judicial thought, then it is logical to assume that Congress would take immediate steps to correct this flawed doctrine at the appropriate time.

In 1959, Congress passed the Landrum-Griffin Act, which dealt directly with the issue of picketing, strikes, and voting rights for economic strikers.

Obviously, it would be hard to imagine a time more appropriate to correct something as abhorrent as the Mackay doctrine, if the proponents are correct in their assertion that the doctrine was incompatible with basic rights and values of federal labor law.

The Landrum-Griffin Act was an appropriate time to correct mistakes made by the Supreme Court when interpreting Federal labor law. It would have been an obvious time to correct the Mackay doctrine, if the doctrine was in fact the mistake the proponents of S. 55 claim it to be. But, it was not changed.

Instead, the Landrum-Griffin Act included a provision granting economic strikers the right to vote in an election held within 1 year after commencement of an economic strike if they have been replaced.

Congress gave those strikers the right to vote to prevent employers from getting rid of the union by hiring "permanent replacements and then holding an election immediately thereafter in which the permanent replacements but not the strikers could vote."

Even the most enthusiastic proponent of this legislation would have to agree that there was little need for this provision in the Landrum-Griffin Act if Congress believed that an employer could not hire permanent replacements for economic strikers.

The Mackay doctrine was not dicta. It certainly did not forego the will of Congress, and it insults our intelligence to come in and say it was dicta.

Mr. President, it is obvious that Congress clearly believed that the Mackay doctrine was the correct expression of the law—that employers could hire permanent replacements for economic strikers.

Contrary to the assertion that the Mackay rule is an aberration, the Court has affirmed it on numerous occasions over the past 50 years, at times by justices not known for harboring an antiunion bias.

In 1963, in *NLRB* v. *Erie Resistor Corp.*, 373 U.S. 221, 232 (1963), against a challenge to Mackay, the Court stated, "We have no intention of questioning the vitality of the Mackay rule. * * *"

In 1967, in *NLRB* v. *Fleetwood Trailer Co.*, 389 U.S. 375, 379 (1967), the Court stated that employers have "'legitimate and substantial business justifications' for refusing to reinstate employees who engaged in an economic strike * * * when the jobs claimed by the strikers are occupied by workers hired as permanent replacements during the strike in order to continue operations."

In 1983, the Court reaffirmed Mackay in *Belknap, Inc.* v. *Hale*, 463 U.S. 491, 504, n. 8 (1983), when it held, "The refusal to fire permanent replacements because of commitments made to them in the course of an economic strike satisfies the requirement that the employer have a 'legitimate and substantial justification' for its refusal to reinstate strikers."

As recently as 1989, Justice O'Connor, writing for the Court, applied Mackay to affirm the validity of TWA's permanent replacement of striking flight attendants. She writes, "On various occasions [over the years] we have reaffirmed the holding of Mackay Radio."

The fundamental principles behind Mackay rest in the proposition that unions and employers are entitled to a level negotiating field in which each party is free to use the economic weapons available to it, and it is a delicate balance, this field, and it should be.

On occasions, these principles have been reaffirmed by the most unlikely members of the Court.

In a case involving a union challenging an employers' association's use of freeze-outs, Justice William Brennan wrote for the Court:

Although the [National Labor Relations] Act protects the right of employees to strike in support of their demands, this protection is not so absolute as to deny self-help by employers when legitimate interests of employees and employers collide. *Labor Board* v. *Truck Drivers Union*, 353 U.S. 87, 96 (1957).

Likewise, it was Justice Brennan, who in a subsequent case involving union strike tactics, in *Labor Board* v. *Insurance Agents*, 361 U.S. 477, 489–490 (1960), wrote the following:

The presence of economic weapons in reserve, and their actual exercise on occasion by the parties, is part and parcel of the system * * * two factors—necessity for good-faith bargaining between parties, and the availability of economic pressure devices to each to make the other party incline to agree on one's terms—exist side by side * * * and, at the same time, negotiation positions are apt to be weak or strong in accordance with the degree of economic power the parties possess. * * * And if [the government] could regulate the choice of economic weapons that may be used as part of collective bargaining, it would be in a position to exercise considerable influence upon the substantive terms upon which the parties contract.

As one can readily see, it is clear that S. 55 demands that we overturn a well-established precedent of labor law, established by both liberals and conservatives on the Supreme Court.

Far from being dicta, the Mackay doctrine is a clear expression of the law. It has been left unchanged by Congress for more than half a century. It has been upheld by the Supreme Court on a number of occasions.

In sum, the attempted minimization of the Mackay doctrine by the proponents of S. 55 will not stand the light of review.

The proponents' revisionist reading of the legislative history of the Wagner Act and the Landrum-Griffin Act, as well as some fifty years of subsequent holdings by the Supreme Court, remind me of the story about the lawyer who was challenged by the judge on a point of law during a trial.

Knowing he had no legal authority or precedent for his position, the lawyer looked the judge straight in the eye and rattled off the names of the first five cases that came to his mind.

Following a lunch break, the judge asked the attorney to approach the bench. "I looked up every case you cited," the judge said, "and they have nothing to do with this trial. What do you have to say for yourself." "I apologize," the lawyer responded, "but I was just being an advocate."

Well, the proponents of this bill are nothing if not advocates, and they are nothing if not resourceful. Faced with the rather obvious probability that they could not discredit the Mackay doctrine through a tortured legal analysis, they propagated yet another myth, a myth that brings this issue up to the present.

I suppose this myth was inevitable—namely, the idea that it's all President Reagan's fault. I have seen this time and time again over the last few years—everything that is wrong with America today is the fault of President

Ronald Reagan. The proponents argue that the hiring of permanent replacements was just not done before 1980. In other words, the Mackay doctrine was not a problem during its first 44 years because employers never exercised this legal right in this manner.

There was no reason for the unions and their friends in Congress to complain about the hiring of permanent replacements, because no permanent replacements were ever hired. It just was not done.

For those listening closely, they will not miss the significance of the date used by the bill's supporters.

The proponents claim that it was not until the 1980's that the use of permanent replacements became so commonplace. It was not until the Reagan administration that employers began racing out and hiring permanent replacements the first moment an employee went out on strike. President Reagan made it fashionable to use replacements when the members of PATCO, the air traffic controllers, broke the law that prohibits Federal employees from striking the U.S. Government.

It is a terrible thing for President Reagan to reinforce the law. But he did. And therefore, that was the first time that the Mackay doctrine was ever used.

When these employees went out on strike, they were permanently replaced by the President at that time. According to the proponents, President Reagan's actions gave employers around the Nation the green light, and employers ever since have been replacing thousands upon thousands of striker employees.

I suppose it was only a matter of time before proponents of this legislation got around to blaming Ronald Reagan. He has been blamed for everything that is wrong with society today. Why not do it for this case?

You know, I find it ironic that some of my colleagues routinely criticize President Reagan for doing so little, and then immediately turn around and blame him for everything they believe is wrong with the United States today, for doing so much.

And, they certainly find a lot that is wrong. For someone who is constantly criticized for being so inactive, President Reagan certainly seems to have accomplished a lot, in his few 8 years, as President of the United States.

The only problem with the argument that the use of permanent replacements is a recent phenomenon is that it is totally wrong.

According to a study released by the Employment Policy Foundation, there are 251 National Labor Relations Board cases since 1938 where the Supreme Court's decision in Mackay was cited, and permanent replacements were hired. All but 22 of these cases involved strikes that occurred before 1981. All but 22 of them.

One might wonder how the proponents could have missed 251 cases.

Of course, the argument that Mackay replacements were not used before the 1980's is joined with the asserting that it has become common or standard practice since that time.

Over the next several days, this body is likely to hear about a GAO report commissioned by the proponents of the legislation entitled, "Report to Congressional Requesters: Strikes and the Use of Permanent Strike Replacements in the 1970's and 1980's."

This report is purported to be the definitive proof of how widespread the problem of permanent replacements has become. According to the report, the GAO found that, in 1985, 4 percent of striking employees were replaced by Mackay replacements.

The report went on to conclude that this figure fell to 3 percent in 1989. These figures count as permanently replaced those strikers who returned or who will return to their jobs as a result of vacancies, a strike settlement, or a National Labor Relations Board order in case of an unfair labor practice strike.

In sum, according to the report requested by the proponents of this legislation, 96 percent of all employees who went on strike in 1985 were not—I emphasize not—replaced by permanent replacements. In 1989, 97 percent of workers who went on strike were not—I underline not—permanently replaced.

This is the proponents' evidence of an employer community run amok. The fact is that the problem they are complaining about has decreased.

I might note that the number of affected strikers is less than one one-thousandth of 1 percent of all Americans in the civilian labor force, but the total number of workers whose jobs would be affected, if S. 55 were to become law, cannot be calculated.

That is how bad this legislation is. It is a pathetic legislative effort.

The proponents argue that the practice of hiring Mackay replacements has become widespread seems to have become reinforced by several well-publicized strikes in recent years.

It ought to be noted, however, that the final chapter has not been written on some of these strikes. Many are at issue in ongoing litigation to determine whether the strikes were economic or unfair labor practice strikes.

As noted before, if the strikes are found to be unfair labor practice strikes, striking employees would not only be entitled to be reinstated, they could be entitled to substantial amounts of back pay, or what we call "back-pay awards." But, most importantly, Mr. President, these strikes serve as stark reminders of the dangerous consequences of strikes for both sides.

Recent experience has also shown the importance of the employer's ability to hire permanent replacements and the importance of keeping both sides in a labor dispute at risk.

Take the recent strike at Caterpillar, Inc. The main issue in this dispute was the United Auto Workers' insistence on pattern bargaining. That is a practice that requires that all companies in an industry be covered by the same collective bargaining agreement.

The union demanded that Caterpillar agree to the same terms and conditions negotiated by the union at John Deere Co. last year. In other words, that Caterpillar—a different company, almost a totally different company in every respect—according to them, should have to comply with the pattern of the collective bargaining agreement negotiated with John Deere & Co. last year.

Well, Caterpillar resisted stating that it could not continue to compete with its foreign competition, if it were locked into the Deere contract.

They said that their company was a different company; it had different goals; it had different competitors; it had different foreign relationships; it had different intergovernmental and intercountry relationships. You could not put them in the same pot that you put John Deere & Co. in.

That sounds like a logical argument for a company, if it is true.

The company had requested, among other things, watered-down seniority provisions, the ability to accelerate layoffs, and a two-tier wage scale that would allow the company to bring on new employees at a lower level than current workers. The union went out on strike and stayed out for more than 5 months.

The company made what for many Americans would be an incredibly lucrative offer. Caterpillar would raise top minimum pay, these are blue-collar workers, from $35,318 annually to $39,915 annually, by September 1994. This amounts to a 13-percent wage increase over 3 years, plus full health care benefits, if workers use designated facilities, and they offered a guarantee of their job with full pay for 6 years.

I do not know about you, but when they say they were going to hire permanent replacements, 30,000 people called in one day for those jobs. A number of whom said, "we would be willing to work for a lot less than that, to have that kind of a job and that kind of a guarantee."

But the union had a right to stay on strike if it wanted to. If they did not like those terms, as good as many think they were, they had a right to stay out. But the employer also had a right under this delicate balance. That employer had a right to say: "I have to save my company. The only way I can do it is to hire permanent replacements and train them, and they are going to have to be here, and you will not have jobs anymore. Even so, we are not going to do that right away; we will give you a chance to come back."

Well, you can see the delicate balance. The average worker at Caterpillar will be making about $47,000 a year 3 years from now, compared with $42,000 last year. Furthermore, Caterpillar would increase average monthly pensions to $1,800 per month.

According to Herbert Northrup, the retired chairman of the Wharton School's Labor Relations Council at the University of Pennsylvania, "These are some of the best blue-collar jobs in industry." But the union rejected Caterpillar's offer, as good as many felt it was.

Five months into the strike, faced with no alternative, they sent a letter to all striking employees asking them to return to work under key terms of the company's final contract offer rejected by the United Auto Workers, which was the union that covered all of these plants including John Deere and Caterpillar, and they had a right to do so. I would uphold that right. They had a right to call its workers out on strike. I would uphold that right. They had a right to keep them out on strike. I would uphold that. They had a right to reject what some people thought were the best blue-collar workers' benefits in the country. They had that right, and I would uphold that.

But the employer had a right, too. In order to save his business, he had a right to say: "I cannot go any farther; we lost $400 million last year. We are going to have to hire permanent replacements, unless you people come back, and we want you back."

The employer had some rights, too, and I would uphold those rights. That is what I am doing right now, fighting to uphold that delicate balance, which, if we do not have it, is going to cause chaos in America. There is no use kidding about it.

When the worker replacement notice went out, because they had no choice, management felt maybe they were wrong, but they had a right to do it, like the unions had a right to strike and stay out and to object to the present terms and conditions of employment. Well, management had a right to say: "We are frightened, we do not think we can go farther this way. If we do not train people now or permanently hire, we are going to be brought down anyway, so we have to do something."

They sent out a worker-replacement notice after telling all of their employees, "please come back, we really need you, we really want you, we do not want somebody else. We do not want to have to to go through the tremendous expense of training people and all of the fighting and irritableness and bitterness and bad feelings that arise."

But they did not come back, or at least most of them did not come back. When the worker replacement notice went out, Caterpillar received tens of thousands of phone inquiries including applications from highly skilled workers laid off from the defense industry. One even came from the former Soviet Union.

The fact is we have all kinds of defense industries going out of work. Many of those blue collar workers would have loved to have the benefits, conditions and terms of employment that Caterpillar was offering to its employees. The Caterpillar employees did not want that. That was their right. But it seems to me it was a business' right to offer to hire permanent replacements. If it did not have that right where would that business be today? They would probably be dead today, or they would have to capitulate, or probably be dead anyway to what they considered to be outrageous organized labor demands on a pattern basis made with a company that had a different business in many respects from that of Caterpillar.

In this case, this company waited 5 months before announcing that it would hire permanent replacements—5 solid months before it stated that it would hire permanent replacements for its striking employees. Tens of thousands of Americans indicated that they would he been pleased to earn nearly $40,000 a year, going up.

Faced with the risk of being replaced, the union was, in fact, forced to temper its economic demands, which many feel were clearly out of touch with the labor market not only in Peoria, IL, but also throughout the United States.

I cannot personally judge that. I cannot say I was on the side of either, the company or the labor unions. I was on the side of both of them working it out if they could within the current law with this delicate balance, both using the economic powers they had.

When the company decided it had no choice in order to save its business other than to exercise it rights to permanently replace, then of course there was a lot of anguish throughout the country. And some argue that is the reason for this bill, or one of the reasons for this bill.

I do not think so. This bill was floating around, bumping up and down long before that strike.

Some pundits have claimed that the Caterpillar strike signaled the death knell for the American labor movement. The columnist Mark Shields offered the following observation, "If PATCO was Fort Sumter in the campaign against American organized labor, Peoria was Appomattox."

He has a tremendous facility with words and I will not comment beyond that but I find a lot of irony in what he said.

While some might question comparing organized labor to the Confederacy, the Caterpillar strikers are hardly bereft.

They have returned to work, earning more than $40,000 a year plus benefits.

What the proponents have trouble admitting is that the Caterpillar strike is vivid evidence that the current system, which has stood for more than half a century, works.

By keeping both sides at economic risk, by forcing both sides to act reasonably and remain under some economic restraints, the dispute was ended.

Another myth associated with S. 55 is the implication that the legislation would restore balance and fairness to our labor laws.

While the legislation clearly limits the actions an employer can take during a strike, it should be remembered that there is nothing in S. 55 which would impose a similar limitation on the rights of unions.

There is nothing in the bill that increases the economic risk of union members, nor are they forced under the bill to relinquish an equivalent right.

Economic strikes in some States have the right to collect unemployment compensation. They are not prevented from finding other employment during the strike. They are entitled to receive union strike benefits that might not be insignificant in some instances given, for example, that the UAW war chest is reportedly about $800 million. Further, in some States striker may be eligible for welfare benefits. Nothing in the legislation would change these rights. Those are all rights and protections for labor union members and workers throughout the country.

Moreover, nothing in the bill would prohibit unions from engaging in destructive corporate campaigns or from running a company out of business. S. 55 would make no changes in the rights afforded to strikers, only in the rights afforded to employers.

Another myth disseminated by the proponents is that the Mackay doctrine corrupts the collective bargaining process.

In fact, S. 55 would itself corrupt the bargaining process because it would provide that the right to strike may be asserted free of any economic disadvantage.

The right to strike was never intended to make strikers the owners of their jobs.

As Justice Stewart explained in writing for the majority in the Supreme Court's opinion in 1965 in *American Ship Building Company* v. *NLRB*, 380 U.S. 300, "[t]he right to bargain collectively does not entail any 'right' to insist on one's position free from the sort of economic disadvantage which frequently attends bargaining disputes * * * The right to strike as commonly understood is the right to cease work—nothing more."

I think that dispels that myth.

Another argument trotted out by the proponents is that other industrialized countries like Japan, Germany, and

Canada do not permit the hiring of permanent replacements.

What the proponents like to skip over is the fact that most other countries do not simply reject the Mackay doctrine—they reject our entire industrial relations system.

In fact, a quick trip around the world reveals that American unions already enjoy several advantages over their international counterparts.

Would the proponents like to buy into the entire German labor relations system?

Look, you cannot just take one aspect of it. How about taking all of it?

In Germany, more than one union can represent employees performing the same work. A strike in Germany becomes illegal whenever picketers use intimidation as a tactic.

Let me tell you something. That has to worry a few people before they want the German plant system. We have seen that tactic used here.

Strikes are forbidden in Germany if they would grievously wound a company.

Wait a minute. How valid would the Caterpillar strike have been under German law? Not very valid because they certainly would have grievously wounded that company had it gone on much longer.

And under German law all strikers, all strikers, are ineligible for unemployment benefits. That is not the case in our country. So do not just argue one aspect of German labor law and industrial relations. How about all of them? I do not agree with Germany on a number of those items.

In France, the law permits individual bargaining or unilateral employer action to supersede collective bargaining agreement provisions. Moreover, French labor law eliminates any requirement that unions and management try to reach an agreement. Think of that. "* * * any requirement that unions and management try to reach an agreement."

In the Netherlands, courts are given broad judicial authority to enjoin strikes. We do not allow that here. We just do not allow that here.

Other countries require that strikes must be preceded by a strike vote. U.S. labor law does not require that. But other countries do, these countries that they are claiming give such advantage to their employees. No, there is no nation on Earth that has the fairness in labor law that this country does. There is no nation on Earth that allows the true balance between the two competitors in this industrial relations system that this country does.

Perhaps the best window on the future if S. 55 were enacted into law is the recent experience with strikes and labor union demands in Germany, where employers are not permitted to hire permanent replacements.

Does anyone in this body think that Americans reading the press accounts of the disruption caused by the recent major strike in Germany are clamoring to have our system emulate Germany's? I do not think to many people are arguing for that.

As reported by the New York Times, 100,000 striking German workers threw public transport into chaos, causing traffic jams and serious disruption of hospitals, postal and telephone service, and trash collection.

Furthermore, the postmortem of that strike's ultimate resolution was not only that it cost the country $600 million, but that the settlement the government was forced to agree to would boost inflation to a record high and cause both an exodus of jobs and an economic slowdown in Germany.

Germany is currently exporting jobs at the rate of 100,000 a year.

How would you like that in this country; exporting jobs at the rate of 100,000 a year?

As described in a Wall Street Journal article in January of this year, "businessmen have always complained about Germany's high production costs and what they call unrealistic demands of labor. Lately they have begun to do something about it." Maybe that is why a Mercedes costs $96,000. Maybe not. I do not know. But it is something to think about.

This article in the Wall Street Journal goes on to give examples of major German employers who have left that country, taking their businesses and their jobs elsewhere.

The final justification for S. 55 is that employers have other options they can use to continue to operate a facility during a strike.

According to the proponents, these options include the hiring of temporary replacements, using supervisory or management personnel to run the plant, transferring or subcontracting work, or stockpiling in advance of the strike.

The majority of the Senate Labor Committee observed that

> In light of * * * our recent chronically high unemployment rates, it is undoubtedly easier today to find temporary replacement workers for even skilled jobs than it was even ten years ago, let alone 50 years ago.

I must admit I was a little surprised that the proponents are willing to assume the current unemployment rates will be a permanent fixture of American society—so permanent, in fact, that they can serve as the basis on which we can build Federal labor policy.

What the proponents apparently do not believe is their own rhetoric—that many union workers are highly skilled employees, who provide the companies for which they work with a valuable service.

You cannot replace a skilled work force overnight, nor can you expect a handful of supervisory and management personnel to maintain operations adequately during a strike for an indefinite period of time. There is an inevitable loss of organizational efficiency and control.

Apparently, we have to state the obvious. If companies could operate without the striking employees, they would employ fewer people in the first place.

What the proponents apparently do not know is that many plants cannot just be shut down. You do not just turn off the lights in a chemical plant and lock the door behind you.

In such instances, the shutdown must be performed in a very careful, orderly manner, using highly trained workers over a 2- to 3-week period.

This is true even when the shutdown occurs not because of a strike but because of routine maintenance.

As the National Labor Relations Board noted in its decision in American Cyanamid Company in 1978:

> The plant is for the most part a continuous process operation with some minor "batch" type production lines shutdowns or turnarounds. This occurs at least once a year on each line for the purposes of a major refurbishing of such line, which takes from 14 to 20 days of round-the-clock maintenance. * * * Because of the danger, not only of damage to equipment and spoilage of product, but also of explosion and the release of toxic materials and gases, it is imperative that the equipment be continuously monitored and attended, and that any shutdown be orderly and performed by knowledgeable personnel. An orderly transfer of operations from regular employees to substitute personnel, because of planning, prearranging, and shifting or transporting of personnel involved, requires as much as 30 days.

What the proponents apparently do not know is that the pool of unemployed workers who might temporarily assist employers during a strike may not possess the same skills as the striking union members. As the Society for Human Resource Management explained during the hearings on S. 55:

> An employer's challenge of recruiting temporary workers would be difficult enough if the pool of available workers was literate and possessed general skills. However that is not the case. Employers are confronted with a less educated and less skilled workforce and must frequently educate employees before they can even begin to train them for specific jobs.

What the proponents of the legislation apparently do not know is that there is not a pool of available skilled workers waiting to run the gauntlet of a picket line in order to work for what could be only a handful of days.

And I do not think they would enjoy being called scabs, either, which is commonly used. Nobody wants to run the gauntlet of a picket line and all of the animosity and all of the bad feelings in order to work for just a few days.

This is especially true for some industries such as the airline industry. As the Air Transport Association of America emphasized in its hearing statement:

Ready pools of skilled pilots and FAA certified mechanics simply do not exist for the airline industry. The training and skills needed to serve the public safety constitute such high standards that there is actually a labor scarcity. In this context, the longstanding Mackay rule is a fundamental protection that the employer needs in order to balance the unlimited power of the strike.

What the proponents of the legislation apparently do not know is that many small businesses can not operate simply by using management and supervisory personnel.

Small businesses tend to be tightly run companies that are extremely efficient. If their employees go on strike, they shut down. There is no alternative.

Perhaps the most honest assessment of the fallacy of the proponents' assertion that there is a ready pool of qualified skilled labor ready and willing to be hired for an indefinite period of time and to run a gauntlet of harassment every day is from the AFL-CIO. Listen to the statement of Walter Kamiat, associate general counsel of the AFL-CIO:

Nothing we have said thus far is to deny that some particular employers may "need" to hire permanent replacements in order to prevail in a particular strike. This may be the case, for example, where striking workers are particularly skilled and the labor market is particularly tight.

Mr. Kamiat apparently is willing to admit a simple fact that has escaped the proponents of the legislation. Namely, some employers have to be able to hire permanent replacements or they will always lose.

I am sure Mr. Kamiat also knows that it is virtually impossible to replace a highly skilled work force with competent people for an indefinite period of time, unless the employer can make an offer of permanent employment.

But, of course, that is why this bill makes every union decision to strike a no-lose decision.

Consequently, without any real check on the demands that can be made by organized labor, employers will have no viable alternative but to cave in and agree to every demand made by striking employees.

Now the proponents, of course, fall into a dead faint every time this argument is made. They literally reel in shock that anyone could even hypothesize that a labor organization might bargain foolishly, that they might be excessive in their demands.

No union is that self-destructive, the proponents argue. A union would always temper its demands to make sure that an employer's ability to operate is not seriously threatened. All labor leaders know that their members are not helped if there are no jobs left after the strike.

Those are the arguments. They say organized labor simply needs the power, according to proponents, to shut a company down when the union decides to go on strike without any fear that the employer might turn around and hire permanent replacements. According to the proponents, this would guarantee true fairness.

My difficulty in accepting this proposition is based on two things, one theoretical and the other a case in point.

First, agreements are made only when there is a perception of mutual benefit or mutual loss. Removing the potential for mutual loss from collective bargaining means that agreements will be harder to come by.

Insulating one of the parties from the risk—and in this case this bill would insulate union bargainers from risk—means that the other party will have to succumb. Or, if you insulate the unions from the risk, that means they can afford a bolder set of demands.

Second, ask yourself if the strike at Caterpillar might still be going on if the company had not begun the process of hiring permanent replacements. How long could caterpillar have lasted before one of its foreign competitors took over their market share. If you are honest you have to answer it in a way that throws great suspicion over S. 55; to take away this equivalent right in management to hire permanent replacements.

S. 55 is perhaps most condemnable for what it does not address. The proponents claim that they want to restore fairness to strikes. They want to correct the perceived flaws in our current labor laws.

What they have concocted is perhaps the most lopsided, special-interest-oriented pieces of legislation that has been rammed through Congress in recent memory.

There is nothing in S. 55 about public safety, about the impact of prolonged strikes that place the public welfare and safety at risk.

What happens when employees at a nursing home go out on strike? What happens when workers at acute care hospitals go out on strike? Do the proponents really believe that by giving unions in the health care industry the ability to call strikes without economic risk that there will not be an increase in the disruption of health care services?

Do the proponents, who have expressed in other contexts such great concern over the skyrocketing cost of health care in this Nation, believe that this legislation will have no impact on health care costs? Who is kidding whom?

The committee report states the following with regard to S. 55:

The Committee is unable to determine the precise economic impact the legislation would have on affected individuals, consumers, and businesses, but the Committee believes that any such impact will be minimal.

The authors of the committee report must be the only people in the United States that cannot figure out the answer to the question of this bill's economic impact.

The economic impact on affected individuals will be devastating. The economic impact on consumers will be devastating. The economic impact on businesses will be devastating.

And, some in this body still wonder why the American people feel that Congress has lost touch with reality. How can one honestly argue that by making strikes risk free for hospital unions, or for unions in any industry, the costs of goods and services will not go up? How can anybody look any of us in the eye and make that argument?

In the health care industry, for example, we know that some people will find access to care more difficult given increasing costs.

Just think about it. Your mother or your father is in an acute care facility. Their lives depend upon those union members working in that facility doing the job. All of a sudden there is a strike and the hospital says we cannot just shut down, people will die. Costs will go up. We will not be competitive. We will not be able to give these services for this community. We are going to all be in trouble. We will operate as best we can with supervisory personnel but sooner or later we are either going to have to get these people come back off strike or we are going to have to hire people who will take their places and keep this acute care facility going.

True, that is a tough example but it is one that would occur time after time. Apply it to almost any industry. See what happens.

Perusal of S. 55 will also find another issue not covered. For many Americans, mention the word "strike" and the word "violence" immediately comes to mind.

Since it is inevitable that S. 55 will result in more strikes, what does the bill have to say about violence? Absolutely nothing.

What does S. 55 do to prevent random shootings like those that occurred during the Greyhound strike? What does S. 55 do to prevent the bombings, or knifings, or rock throwing that have occurred in strikes. Absolutely nothing. Why should we worry about those little exigencies?

So, Mr. President, this so-called Workplace Fairness Act of 1992—a bill that would overturn more than 50 years of Federal labor law—a bill that encourages employees to go on strike—a bill that ignores union violence—a bill that pretends that it will have no economic impact—a bill that in the name of fairness would benefit only one special interest group at the expense of the rest of working men and women, at the expense of the free enterprise system and at the expense of public health and safety should not be sold to the American people as the answer of fairness in the workplace.

We all know that our Nation faces serious social and economic problems. We all know the Federal budget is a nightmare, and that the deficit is slowly choking the lifeblood of our Nation.

We all know that there is a crisis of confidence in our Government, particularly with this Congress. And the proponents of S. 55 have unveiled their solution to all these problems and they are taking this valuable time, and their solution is: Go on strike.

We want you to be able to not only have the right to strike, we want you unions to have the right to win every strike. We want you business people to know that if you do not capitulate, you are going to go down. We want you business people to know that if you do capitulate, you are going to go down. Either way, you lose because there is no delicate balance. There is no way of fighting back. There is no offsetting right.

You lose no matter what you do, Mr. Businessman, because we in the Congress do not believe in this delicate balance. We are going to give the edge to one side, and I wonder why that is so?

I have been told that Members of Congress in the House and the Senate have been told that if they do not vote for this bill, they will not receive any help—any help at all—from organized labor in their campaigns. I have to tell you, that is a real swat, because organized labor donates, according to the authorities I have read, at least $36 million a year through political action committees that has to be reported, and some estimate as high as $300 million a year that does not have to be reported in political activity and political support across this country. I do not know whether that is as high as it is, but they are certainly capable of doing that.

I have had Members—maybe I should not use Members, although I think it would be interesting—I had one of my opponents tell me that even though I seemed to raise double the amount of money in the election process than he did, that he did not lack money in his campaign against me because of this so-called soft money that is put up by the unions for 95 percent of the liberal Democrats in the Congress; and I might add, throughout the country in State and local elections, as well.

So when Members are warned that unless they vote for this bill, they are not going to have any support from the union movement in this country, that is big stuff. Why, ask BERYL ANTHONY, who was defeated yesterday. I have respect for him, and I feel sorry he was defeated. But ask him about it. He had the temerity to vote against this bill. His opponent had all the support of organized labor in the Democratic primary, and BERYL ANTHONY went down to defeat. I suspect there are many in this body who may be thinking: that could be me next. I suspect that may be so.

But I think it is a pretty pitiful situation when one special-interest group in this country can tell people in the greatest deliberative body in the world: Either vote for this, or you get no help, and we will do everything we can to defeat you. I would hate to see the person who told me that in my office; they would be going skinning out of the office so fast, they would not know what hit them because this job does not mean that much to me to pass a piece of junk like this just because of political pressure, and to bring it up right now, with all the problems we have in our society.

At least the House is over there debating the balanced budget constitutional amendment. At least they are talking about our country's ills and our problems. And here we are, bringing ills to the country which have been done around here for far too many years.

I have not seen many bills that I would categorize as bad as this one in the history of the Congress. I have to say to the proponents, who have expressed such great concern over the skyrocking costs of health care in this Nation, they believe this legislation will have no impact on health-care costs? The committee report states all kinds of things with regard to that issue.

Mr. President, I can think of no other bill before this body that is a better test of who is interested in preserving our free enterprise system and generating jobs and economic growth. I can think of no other bill that is going to come before this body this year that would be a better test of who is on the side of a decent economy, who is on the side of the greatest free-market system in the history of this world. I can think of no other single bill that is a better test of who is interested in preserving a balance in our Federal labor laws to ensure the rights of employers and employees and to ensure that those rights are equivalent, a delicate balance. I can think of no other single bill that is a better test of who is interested in preserving, fostering, and nurturing small business in this country. And I can think of no other single bill that is a better test of who is interested in preventing one special-interest group from dictating the laws of our Nation as a means of increasing its own power and influence.

I cannot blame them. As long as they have people who are going to bring these kind of bills up over the preference of all kinds of other things that are necessary for this country at this time, they know that they have power.

So let the ceremony begin. We know our assigned roles. We know our places, and we know our entrances, and we know our exists. And we also know, if S. 55 is enacted, how the play will ultimately end.

This is important stuff. This type of legislation makes a difference whether or not our country continues to go on as a free market system, as a basically strong economic system, or whether or not we give one special-interest group power over the system or whether we maintain a delicate balance that will keep the system moving in the direction of the best interests of everybody.

This bill makes the difference whether or not this body is going to have the respect that it should have. When I see this country's ills and its problems right now, to see this bill up here that would give one-sided power to one side in collective bargaining disputes, it is small wonder that this country is going through the economic difficulties and problems it is going through right now. It makes me sick.

I have to say that I am one of the few of the 535 who came up through the union movement, who earned my journeyman's card and went through a formal apprenticeship program. I know some of my union brothers are not too happy with me right now, but the fact of the matter is I earned it; I am proud of it; I am proud to this day. I am proud I worked with my hands to be able to get through high school, let alone college and law school. I am proud of my union membership, and I will fight for these collective bargaining rights that they have.

To give one side all the rights and the other side none is just going to be chaos for this country, and it does not take any brains to figure it out. That is what this bill does, and I think—I hope—that our colleagues will consider it for what it is; recognize that this 54-year-old doctrine has been there for a reason; recognize that it is fair to keep it there, and that it is very unfair to overrule it by this simple statute, done for special-interest purposes.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah yields the floor. Who seeks time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, are we under a time limitation?

The PRESIDING OFFICER (Mr. DIXON). We are not, may I inform the distinguished senior Senator from Massachusetts, under any time limitation.

Mr. KENNEDY. Mr. President, I did not hear the whole statement of my friend and colleague from Utah. I did hear the latter part of his comments in which he dealt with how this legislation would affect health-care conditions in hospitals across this country.

I am wondering if the Senator is familiar with the current procedures established under the National Labor Relations Act for handling labor disputes at health care institutions?

If I could have the attention of the Senator from Utah, is the Senator from

Utah familiar with the procedures under the National Labor Relations Act that have to be followed before there can be a strike at a health-care facility?

Mr. HATCH. I am familiar with some of them, I think, generally.

Mr. KENNEDY. Is the Senator familiar with the changes made to the act in 1974?

Mr. HATCH. Is the Senator talking about the health-care changes?

Mr. KENNEDY. Yes.

Mr. HATCH. In what bill?

Mr. KENNEDY. In the requirements that unions at health-care facilities must follow, if they intend to strike. I heard the Senator waxing eloquent about how, if we pass the legislation, we are endangering health-care conditions for millions of Americans.

I just wanted to inquire exactly what the Senator was referring to, because there are very specific requirements under the 1974 amendments as to what labor and management have to do with regard to any potential hospital strike.

I was wondering, since the Senator was talking about strikes in various hospitals, whether he was, first of all, familiar with the special mediation and "cooling-off" requirements that have to be followed and, secondly, if he is familiar with the Board of Inquiry procedure, the number of times it has been utilized over the period of the last 10 or 12 years and what the results have been?

Mr. HATCH. Is the Senator suggesting that hospital workers cannot strike under Supreme Court law?

Mr. KENNEDY. I am suggesting that under existing law special procedures have to be followed before hospital workers can strike and, as the Senator was describing what he felt would be the results of the enactment of this legislation, I am just asking why he believes that this legislation would jeopardize health care, since this legislation conforms with mediation and conciliation provisions of the 1974 amendments, which have been in effect and which have operated satisfactorily to protect the health of patients in health care institutions.

Mr. HATCH. Let me ask the Senator two questions. One is: Do not health care workers have a right to strike under the 1974 law? And the second question is: Would not health care workers be covered by S. 55?

Mr. KENNEDY. The answer in both cases would be affirmative, subject to the existing procedures created in the 1974 amendments.

Mr. HATCH. I think that answers my question.

Mr. KENNEDY. Well, my point, as the Senator was asserting that if this bill were enacted, it would endanger the health of the American people, is that this bill does not alter existing provisions of the National Labor Relations Act of 1974 that spell out very specific limitations on strikes and picketing by health care workers.

Mr. HATCH. If the Senator will yield, if there is a right to strike in health care workers, if this particular bill would cover health care workers, which the Senator says is affirmative in both cases, then, once the procedures are met, I have to tell the Senator the scenarios that I have given can come to pass.

Mr. KENNEDY. I do not see how that is likely, since there are existing provisions in terms of health care workers designed to help avoid disruptions in the delivery of health care that are already in law.

Mr. HATCH. Perhaps the Senator better point those out to me then.

Mr. KENNEDY. I do, in sections 8(d), 8(g), and 213 of the act.

Mr. HATCH. I will be glad to listen. But if they have a right to strike, how do you avoid the problem? How do you run an acute care facility?

Mr. KENNEDY. Because requirements are currently spelled out in the law to deal with the kind of threat to health care services the Senator was talking about. These requirements provide special protections to ensure stability in labor-management relations in health care, and those protections have been effective. Unless the Senator is able to indicate that under the existing provisions where you already have the right to strike there have been serious problems in terms of the effect on patient care, I just find the Senator's argument unconvincing.

Mr. HATCH. If the Senator will yield——

The PRESIDING OFFICER. Does the Senator yield?

Mr. KENNEDY. I yield for a question.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Is the Senator familiar with the fact that the reason those health care provisions were enacted, at least to my recollection, is because the Mackay Radio doctrine was in effect? This bill does away with the Mackay Radio doctrine. That means that once people strike, those hospitals cannot permanently replace those workers. If S. 55 becomes law, much of what the Senator is raising would become, if not null and void, certainly inapplicable under certain circumstances. It still allows for the scenarios that I have been talking about. Mackay Radio was law at that time. It is law today.

Mr. KENNEDY. Mr. President, the provisions of S. 55 do not affect the existing special provisions under the 1974 amendments to the National Labor Relations Act requiring special notice, medication, and conciliation where appropriate to avoid health care worker strikes. These provisions have been effective in minimizing the potentially disruptive effect of strike or picketing in the health care industry, so in terms of protection of the public health, I see no particular threat here.

The system of industrial relations in this country was born out of the Great Depression and the New Deal. It is built around a central fact of economic life: The inherent inequality between the bargaining power of a lone worker seeking to improve wages and working conditions, and the bargaining power of the employer.

That is why, since Congress enacted the National Labor Relations Act in 1935, a fundamental goal of national labor policy has been the protection of workers' rights to form and join labor organizations and engage in collective bargaining with their employers.

As the Supreme Court said in 1935, in a decision upholding the constitutionality of that Act:

> Long ago we stated the reason for labor organizations. We said they were organized out of the necessities of the situation; that a single employee was helpless in dealing with an employer; that he was dependent ordinarily on his daily wage for the maintenance of himself and family; that if the employer refused to pay him the wages that he thought fair, he was nevertheless unable to leave the employ and resist arbitrary and unfair treatment; that union was essential to give laborers opportunity to deal on an equal basis with the employer.

Today, as much as ever, employees need the right to organize collectively to improve their wages and working conditions, and to enter into dialogue with their employer about how work should be arranged, so that the firm can achieve its productivity and profitability goals, while at the same time ensuring fair treatment for workers.

Today, the right to organize and bargain collectively is being seriously undermined by the growing practice by employers of permanently replacing workers who exercise their right to strike in furtherance of their bargaining goals.

No one likes strikes, but without that ultimate ability of workers to collectively withdraw their labor and put economic pressure on the employer, the system of collective bargaining is a farce. Employees must either quit, or accept what the employer is offering or taking away.

The exercise of the right to strike has always been tempered by the substantial risks imposed on both employees and employers. On the workers' side, they must face the prospect of going without pay for the duration of the strike.

On the employer's side, a strike means the potential for lost production and lost profit. The interest of both parties in avoiding such losses is why the overwhelming majority of collective bargaining disputes are settled without a strike.

When an employer is able to fire a striking worker by giving the worker's job to a permanent replacement, the risks suddenly shift substantially against the employee.

Where permanent replacements are threatened, employees face the pros-

pect not only that they will go without pay until the dispute is resolved, but that they will lose their jobs altogether—along with the benefits, seniority, and security accrued through their years of service with that employer.

Since the enactment of the National Labor Relations Act, it has been well-settled that an employer cannot fire, discipline, or discriminate against an employee for exercising the right to strike. Yet for striking workers, the distinction between being fired and being permanently replaced is a distinction without a difference. Whether fired or permanently replaced, the employee is out of a job.

For the first 40 years after passage of the NLRA, employers rarely used the permanent replacement weapon. Responsible employers considered it wrong to discard employees who had invested years of service in the firm.

But attitudes took a dramatic turn for the worse in the 1980's. The same distorted obsession with short-term profit that characterized that decade of greed—that brought us a wave of mergers and leveraged buy-outs, the savings and loan scandal, and skyrocketing executive salaries—is reflected in the sudden increase in the use of permanent replacements.

Statistics compiled by GAO show that employers are actually using permanent replacements in one out of every six strikes.

Equally important, employers are threatening to hire permanent replacements in a third of all strikes. And as we all saw in the recent Caterpillar strike, a threat is often all it takes to frighten workers into forgoing or abandoning a strike.

Jay Gould, the railroad tycoon who viciously broke a number of strikes in the early years of this century, used to boast that by his tactics of divide-and-conquer, he could hire one-half the working class to kill the other half.

The public was justifiably outraged by such statements. But what employers are doing when they hire permanent replacements to take the jobs of striking workers who have invested years of their lives in their jobs, is exactly that. They are using the desperation of working people in this country about their declining standard of living, and the lack of decent job opportunities, to put one group of workers against others.

Opponents of S. 55 claim it is necessary to reduce the power of unions to win wage and benefit improvements for their members, if America is to compete effectively in international markets. Yet our strongest trading partners and most successful competitors in Europe and Asia have much higher rates of unionization than we have in this country.

Moreover, no other major industrialized country except South Africa—and now Great Britain—permits employers to use strikes as an occasion to permanently replace their unionized work force.

In Italy and France, the right to strike is guaranteed by the Constitution. In those countries, a strike is recognized for what it is—not an abandonment of the employment relationship but a temporary suspension—and strikers cannot be permanently replaced.

We have recently witnessed, in Germany, a strike by public employees which brought many important sectors of the economy to a standstill. Yet there was no suggestion that those employees should be permanently replaced—even though unemployment in Germany is higher than it is here.

Workers in this country may wonder why the freedoms they fought to secure for workers in Europe and in Japan a generation ago are being denied them here in their own country. Or why the very same political leaders in this country who applauded the boldness of the striking Solidarity workers in Poland condemn unions and undermine the right to strike in the United States.

Opponents of this legislation also claim that unless they can guarantee permanent employment to individuals hired to keep the firm in operation during a strike, they will be unable to recruit replacements. That too is a claim with no support.

In countless cases from 1935 to the present, employers have demonstrated their ability to operate during strikes without using permanent replacements.

Under the law, employers have numerous options if they try to keep operating during a strike. They can use supervisory and managerial personnel to perform the work. They can subcontract the work to third parties.

They can stockpile materials in anticipation of the strike. They can hire temporary replacements to perform the strikers' work until the strike is over.

The experience in Canada—our closest neighbor, whose culture and traditions are most like our own—is that employers prohibited by law from hiring permanent strike replacements can and regularly do recruit replacements without having to offer permanent employment or preferential treatment over strikers.

S. 55, the Workplace Fairness Act, would do nothing to alter employers' rights to continue to use any or all of those weapons to counteract the pressure brought to bear during a strike—including the hiring of replacements on a temporary basis.

At its heart, the striker replacements bill is a question of simple justice. If it is unlawful for an employer to fire a worker because that worker exercises the right to strike, then it should be equally unlawful for an employer to deprive striking workers of their jobs by permanently replacing them.

In a broader sense, however, this bill raises issues that go far beyond the question of who wins or who loses a particular strike. Increasingly, what is at stake is the standard of living for working Americans.

It is no coincidence that the 20-year decline in real wages that working people in this country have experienced coincides with the 20-year downward spiral in the percentage of the work force that is unionized.

Experts now predict that if the current trend continues, union representation in the private sector could drop as low as 8 percent by the year 2000. We are already dangerously close to the point of being the only major industrial society in which unions are not an important player and collective bargaining is not an important institution.

The consequences are seen not only in declining real wages for working Americans, but in the lack of decent health coverage for millions of workers and their families, and the declining percentage of the work force covered by pension plans.

Most threatening of all—not just to the Nation's standard of living, but also to the future of our democratic institutions—is the growing gap between the haves and the have nots in our society.

Inequality of income and of wealth is now at the highest point in postwar history. In terms of the disparity between the incomes and wealth of the top 30 percent and the bottom 70 percent, we are beginning to look more and more like a Third World country, and less and less like a modern industrial democracy.

As the figures pour in, the picture becomes increasingly clear:

Data released by the Congressional Budget Office show that between 1977 and 1989, the after-tax income of the top 1 percent of families rose more than 100 percent while that of the bottom 20 percent fell nearly 10 percent.

Researchers at the Federal Reserve and the Internal Revenue Service report that in the 6 years from 1983 to 1989, the share of wealth of the richest 1 percent of Americans increased from 31 to 39 percent.

According to a new Census Bureau report, the percentage of full-time workers whose wages are too low to bring them above the poverty line has jumped from 12 percent in 1979 to 18 percent in 1990.

During the 1980's, the wages of workers, adjusted for inflation, declined almost 10 percent.

Yet the compensation of top CEO's—which was about 35 times the pay of the average employee in the 1970's has climbed to 120 times average employee pay in the 1990's.

It is time to draw the line, to say that these distressing antiworker

trends have gone too far. The time has come to restore a basic sense of fairness in labor-management relations.

Concern about the consequences of these disturbing trends in labor relations is not limited to any one party or political persuasion. George Shultz, Secretary of Labor, then Secretary of State in two prior Republican administrations, decried the decline of labor's strength in a speech not long ago. "Free societies and free trade unions go together," he said. "Societies that lack the kind of organization that will really get up on its hind legs and fight about freedom are missing something."

Arnold Weber, who served as an economic advisor to the Reagan administration and now heads Northwestern University, recently added his voice to the debate, arguing that the loss of a strong labor movement will be society's loss, "because then fairness and all the problems of distribution which bedevil democratic society will either fall to the Government, with all its political vagaries, or will fall essentially to unilateral management discretion, whether of an enlightened or unenlightened form."

We cannot, and must not, allow ourselves to engage in a disastrous race to the bottom with Third World countries, where global competitiveness is defined in terms of cutthroat competition to drive down wages and benefits for working people.

Ending the practice of permanently replacing workers who exercise their right to strike will not, in and of itself, solve the problems of working Americans.

But we can be sure that if we do not call a halt to this practice, our ability to ensure a decent standard of living for all working Americans is in doubt.

S. 55 is a significant step gains the current unacceptable trend. It reaffirms our Nation's belief in the dignity of work and the right of working men and women to engage in collective bargaining on an equal footing with employer—on a level playing field in which both sides have strong economic incentives to settle their differences and avoid a strike. I urge the Senate to approve it.

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

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

Mr. METZENBAUM. Mr. President, I just heard an address involving a certain argument against this legislation that it would unfairly tip the balance of economic power between labor and management toward labor unions. At first glance, it might seem to be an attractive argument. But I must urge my colleagues to look closely at the facts.

I might say we anticipated that this would be the argument, the notes that I have before me were written before my colleague Senator HATCH spoke, but it should come as no surprise to my colleagues that we have heard this argument often before.

In 1988, my colleague from Utah, Senator HATCH, opposed a bill requiring employers to give workers 60 days' notice of a plant closing. Senator HATCH came to the floor and said the bill would "make major changes in the National Labor Relations Act which has functioned very, very well and has maintained a delicate balance between the competing interests of labor and management for many years." The plant closing bill, Senator HATCH said, "Will upset that relationship." Similar suggestions of massive upheaval in labor-management relations came from Senators SYMMS, QUAYLE, SIMPSON, and other ardent opponents of the 60-day notice law. This is an argument that we get every time there is some legislation having to do with the rights of working people. I might suggest to my colleague it probably would make a good song if you put music to it because it is the same refrain over and over and over again.

With respect to the plant closing law, the argument was that it would upset the delicate balance between the competing interests of labor and management that had existed for many years.

Let me point out that 3 years after that law was enacted, thousands of employers have given advance notice to hundreds of thousands of American workers. And we now can see the folly in Senator HATCH's earlier prediction.

This same concern has equally little merit as applied to the workplace fairness bill. What is really going on here, Mr. President, is an all-out effort by corporate lobbyists—the same high paid lobbyists who come here regularly—to preserve the lopsided imbalance that has developed in recent decades between labor and management.

Let me just say one other thing. I thought it was the height of hypocrisy for my colleague to talk about the campaign contributions of labor to the campaigns of some Senators. Look at his own record. Look at the record of so many in this Senate and the kinds of money they accept from the corporate PAC's, and look at their failure to be willing to join with the Democrats in eliminating those corporate PAC's through new legislation having to do with campaign reform.

But let us come back to the question of Federal labor policy. Fifty-seven years ago, Congress recognized the terrible toll that labor disputes were taking on the economic and social fabric of this country. The National Labor Relations Act made clear that collective bargaining should serve as the preferred method of resolving labor-management disputes and preserving economic stability. That original act in 1935 was amended twice, with the Landrum-Griffin Act and the Taft-Hartley Act but basically it still reserves the bargaining right, the rights of employees to join together in a union and collectively bargain with management if a majority of the employees want that union to speak for them.

The guiding principle of the NLRA was to seek a peaceful resolution of labor disputes through negotiation between labor and management. Where negotiation fails to resolve a dispute, each side is permitted to exercise peaceful self-help options. This system depends upon a balance of economic power between the parties.

Now, that is where the right to strike comes in—it is a union's principal means, actually the only means, of economic self-help. It is seldom used—better than 99 percent of labor contracts are negotiated without the need for a strike. But the possibility of a strike as a last resort for workers encourages management to negotiate fair agreements.

Thus, the right to strike is essential to the balance of economic power between labor and management because it gives workers bargaining power.

I said it earlier today. How else could workers earning $20,000 or $15,000 or $30,000 a year hope to have any leverage with those multi-million-dollar executives who are getting salaries today beyond compare with anything we had in this country's history, $25, $30, $40, $78 million. And a worker getting $20,000 a year, $30,000 a year is supposed to be able to negotiate with that employer? Could he possibly or she possibly do so without a union which he or she could join? Absent that how else could low-skilled, easily replaceable workers—very often women, minorities, poorly educated Americans, and the most vulnerable in our society—avoid being used up by multinational corporations just like some sort of raw material?

I mentioned one of the strikes before, where the employer had brought in striker replacements. And I defy any Member of this body to justify the action of Phelps-Dodge when they cut the wages of their employees 50 percent and the employees did not accept it, they went on strike. The employer brought in striker replacements. The Senator from Utah talks about the wages of the employees at Caterpillar. Let us talk about the wages at Phelps-Dodge, closer to his own home community. They cut the wages 50 percent and then brought in striker replacements. Is that what you want to stand up here on the floor and defend? Is that what you think is great for the American industrial scene? Is that what you want to say to the rest of the world—that

employers in this country can cut wages 50 percent and bring in striker replacements that take the jobs? If that is the kind of America you want, it is something different than I want for my children and grandchildren and great grandchildren.

The critical question here is whether the Workplace Fairness Act would correct a promanagement imbalance that emerged in recent years, or create a new union imbalance, as the bill's opponents suggest. Let us take a look at the facts.

For many decades employers virtually never hired permanent replacements. It is true that employers have been permitted to do so since the Supreme Court decision to do so in Mackay Radio in 1938. Until President Reagan came in and fired those employees, the PATCO employees, in one of the two unions in the country that supported him. He fired them and refused to take them back on. Those poor working people, even as of this day, have not been permitted to come back on the Federal payroll as air traffic controllers.

Prior to 1980, employers found no need to hire permanent replacements. But once President Reagan had set the tone, then the message was out. The Government approves of firing strikers and bringing in permanent replacements. Why cannot management?

American employers before that had valued their workers and counted on their returning after a strike. They understood that workers do not want to harm their company. We have had strikes in this country going back years, almost since our inception. Employees who work for a company, some who have given more than 10, 20, 30, 40 years of their lives, do not want to strike. It creates tremendous impact on their families. It hurts them economically. But sometimes they have no alternative.

Before, when the playing field was level, employers whose employees went on strike used their best leverage: they hired temporary replacements, they subcontracted or transferred the struck work. They operated with management personnel, and in some cases they ceased operations for the duration of the strike. There were many alternatives that still were available to employers, and they regularly did and still do use them.

But a group of employers have decided that this is the way to break the union. Too many of them are the new leverage buyout men and women, who come in and take over a company. They have no sense of loyalty, could not give a darn about the workers, cut the wages, refuse to sit down and negotiate and come to an agreement that is reasonable, and instead are happier when they are able to terminate the jobs of their striking employees.

The critical fact here is that the absence of the permanent replacement threat did not—I repeat did not—prompt unions to strike at the drop of a hat. Workers are never eager to give up their paycheck, walk the picket line, exhaust their life savings, or strain their families financially and, yes, emotionally as well. Workers never welcome a strike which will tear at the fabric of their friendships and their communities. A strike is always the last resort.

For many decades prior to 1980, the balance of economic power between labor and management was relatively even, and the system worked.

Now, let us consider what has happened since 1980, after President Reagan fired the PATCO employees. Employers have increasingly used the Mackay doctrine to hire permanent replacements. According to the General Accounting Office, employers now hire or threaten to hire permanent replacements in one out of every three strikes. This practice has dramatically altered the balance of economic power in favor of management.

As a matter of fact, GAO figures, if my recollection serves me right, that they considered going down that road in even more instances than that.

Different factors are cited as reasons for this alarming increase. Some cite President Reagan's treatment of the air traffic controllers. Some blame Frank Lorenzo and the new breed of employers. Some talk about people who plan to bring in replacements even before there is a strike at hand. Still others cite gradual changes in our labor laws that, when considered together, have substantially restricted the effectiveness of labor's self-help options when collective bargaining fails.

Mr. President, this legislation is fair. It would restore a balance of equity. It would restore the right of workers to go out on strike. It would give the employer the same rights it has had with respect to bringing in temporary replacements, using its office employees to do the work. It would not preclude the employer from continuing its operation, but it would preclude the employer from bringing in permanent replacements to take the jobs of the people who have built the company.

Recently, the United Steelworkers did a survey. The survey involved 50 strikes since 1983 in which temporary or permanent replacements were hired. Settlements were reached in all 14 strikes where temporary replacements were involved. But in 25 of the 36 strikes that involved permanent replacements, the union was decertified and the collective bargaining relationship was destroyed. The Steelworkers survey confirms that the balance of economic power between labor and management has been fundamentally altered, and needs fixing. The Workplace Fairness Act would do that.

I hope that a majority of this body will see fit to vote for it. I hope that an even larger majority would see fit to bring the debate on this issue to a close at an appropriate time.

The argument that this bill would unfairly tilt the balance toward workers is nothing more than a red herring. Far from upsetting the balance, this bill would restore balance to labor-management relations and to the collective bargaining process.

Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I am very happy to participate in this debate. I wish we were not discussing this bill and that the issue was not before us. It is not a very easy issue to deal with, but I'd like to address this issue in the historical context of 50 years of labor law, which has, essentially, created a harmonious balance between the rights of management and labor.

During the last 50 years, there have only been two occasions where basic labor law has been changed. The first time was in 1947 with the Taft-Hartley Act and the second time was with the Landrum-Griffin Act. This infrequency of making major substantive changes in labor law reflects the general satisfaction toward our laws regarding labor and management, and specifically with regard to the issue we are dealing with today.

I would like to speak on this measure from the perspective of a Member of Congress, but also from the perspective of a former union member and assembly line worker. From 1962 until 1971, I was a member of the International Association of Machinists. I don't think there are many Members of this body who have been members of unions. I know I am not the only one. But I do not think there are many who have been or have had the years on the assembly line that I have had.

This experience affords me a unique perspective, because I know what it is like to be not only a factory worker, an assembly line worker, but also a union member. A great deal of pride is derived from that membership and the years I spent on the assembly line.

Despite my past affiliation, I cannot support the legislation we are debating today.

During my union membership I had the opportunity of serving on the shop safety committee at our plant and at one time I voted to go on strike. That strike lasted about 5 weeks. I attended the meeting where our shop voted to go on strike and the vote was unanimous. So clearly, I supported the strike effort. I felt it was a necessary tool and that it was used effectively by our work force to reach an agreement that was satisfactory to an overwhelming majority of the people in our shop.

During our strike I remember, of course, the uncertainty I felt toward

the future, as I wondered about the families, not only mine, but the families of all the workers, and our responsibility to provide for them.

And that is something, obviously, that is in the minds of the people promoting this legislation, because they understand, or worry about, being in this same situation.

It happens that I also served at a time when there was some labor conflict in our shop between my union, the International Association of Machinists, and the Sheet Metal Workers of America. My plant, which manufactured furnace registers, was one of the few plants of the Dynamics Corp. of America, where the workers were represented by the Machinists Union. Most of the other workers were represented by the Sheet Metal Workers Union. Consequently, a battle over representation developed. It finally reached a point where there was an unwillingness, particularly in the State of Pennsylvania, to install the registers made at our plant.

In order to end this strife, our company wanted us to accept the representation of the Sheet Metal Workers Union. A hotly contested race ensued between the International Association of Machinists and the Sheet Metal Workers Union. I remember that jurisdictional election well. At that time, I was a member of the Iowa Legislature. I took a leave of absence from my job on the assembly line while the legislature was in session—a few short months of the year. I recall driving the 110 miles from Des Moines, IA, to Cedar Falls, where our plant, the Waterloo Register, was located, to cast my vote in that jurisdictional election.

It was a secret ballot, but I voted to maintain the representation of the Machinists Union because I thought the Machinists Union was the union that I wanted representing me. The Machinists won, but only by a handful of votes. However, the dispute did not end. The battle between the two unions continued and, ultimately, the Waterloo Register closed down. The plant has not existed since June 1971 because they could not operate under the strife caused by this battle. There was an effort by the plant to manufacture a different product, but the workers did not want to change products. So the company decided it could not operate.

Consequently, I was out of work, along with many men and women who had given many years to that plant. I was probably one of the fortunate ones because I had started a farming operation by then. It is one of those old stories about how long are you going to farm? Well, you are going to farm as long as you have outside income to support it.

Anyway, I was fortunate enough to have some outside income to get started farming, so I had a farming operation at that point to fall back on. So it did not create the problem for me that it did for a lot of people. But I know what it is like to go through a strike. I know what it is like to appear at the union halls to debate whether or not to go on strike. And I have seen the positive results that can come from labor-management relations even when the torment of a strike has been endured.

But I have also seen where union leadership doesn't represent the will of its members. I know this because I have seen how a dispute at the national level between two unions resulted in the loss of 180 jobs—at the Waterloo Register. I think that to the national union leaders, 180 jobs did not make much of a difference in the scheme of things, when there are millions and millions of union members. Those 180 jobs meant a lot to us, however.

I strongly support the right for workers to organize and to join unions to represent their point of view. But I also support the right not to join a union. And I support that right even if the nonunion member gets the benefits of union membership without paying those dues. I believe the right of association in the Constitution is the right not to associate as well. I do not believe that any one body or organization should be in a position to impress its will upon others.

It worries me that the bill we are debating today does just that. It completely ignores the needs and opinions of parties outside the organization. Proponents will argue that a vote against this bill is a vote against the hard-working men and women of America. That kind of statement is a distortion of what this issue is all about. We cannot focus on the wishes of one group without looking at the needs of all parties involved. And there are even people beyond the parties involved who, to some extent, have to have some consideration.

There are a number of reasons why I cannot support this bill—the negative impact it would have on struggling businesses, nonunion workers, and the competitive edge of our economy.

Furthermore, enactment of this bill would overturn 50 years' experience of labor law, essentially destroying the very delicate nature of our labor-management relationship. If this bill is passed, victory will be declared, but I do believe it will be short lived.

The National Labor Relations Act has been the principal source of labor law in this country for more than 50 years. At the heart of this law is a worker's right to engage in concerted activity, including the right to strike. But the act also promotes collective bargaining as the preferred method of resolving those disputes.

However, as early as the late 1930's the issue that is at the center of this bill was raised: Whether or not business had the right to protect its operation by hiring replacement workers in the event of a strike.

In 1938, the Mackay case came before the Supreme Court, challenging this notion. The Supreme Court subsequently determined that a business may hire replacement workers during a strike in order to continue operating. The court recognized that labor has a very potent offensive weapon in its arsenal, but that its right to strike must be balanced against a business' right to exercise its defensive weapon, to continue operating. This has been practiced labor law for the last 50 years.

Many ask what the difference is between hiring replacement workers and firing the striking workers. The Mackay decision makes a clear distinction between these two. There are two forms of strike activity: Economic strikes and unfair labor practice strikes. Economic strikes occur over the demands for higher wages or better benefits. Unfair labor practice strikes result from allegations of unfair practices by the employer, such as bargaining in bad faith.

The Mackay decision clearly states that if a strike results from an unfair labor practice, the law protects those striking workers' jobs. The law requires employers to immediately reinstate the strikers to their former position, often with back pay.

If, on the other hand, the strike is over economic terms, the Mackay decision states that employers do not have to fire replacement workers at the end of the strike. However, if striking workers would like to return to work, they will be reinstated as vacancies occur.

In other words, if the employer has simply resisted a union's demands over wages and benefits, and a strike results, the law permits an employer to defend itself by continuing to operate with replacement workers.

It is unlawful, then, for an employer to fire workers who were engaged in a lawful strike activity. And more importantly, the law provides that striking workers during an economic strike are guaranteed full reinstatement when positions become available, and are guaranteed the right to be placed on a preferential hiring list if positions are not available.

Obviously, labor and management have much at stake in the success or failure of their relationship. This relationship is delicate, sometimes harmonious and at other times tenuous. However, for the last 50 years a balance between the interests of labor and management has been nurtured.

The law, as defined by the Mackay decision, nurtures this relationship by fostering a balance of the legal rights of both parties. Since the protection of the right to strike gives unions an extremely potent political weapon, the law also provides employers with a defensive weapon of continuing to operate during a strike.

Both labor and management recognize that they have a lot at stake if their relationship begins to tip in one direction or another. But this risk forces them to cooperate to the best of their ability to regain that delicate balance. If this bill is enacted, this delicate, balanced, relationship will be destroyed. Unions will be given complete control over the terms and conditions of employment, regardless of business' ability to comply with these demands. If a business cannot comply with these demands, the union can call a strike and the business could cease to operate. The unions can declare immediate victory, but who will be victorious in the long run? No one.

Proponents argue that this legislation is necessary because the practice of hiring replacement workers has become accepted and widely used—thus tipping the balance in favor of management as opposed to labor. However, data does not support this position. In a 1991 GAO report, the GAO could not provide any comparison between the use of replacements in the 1970's and 1980's. The report did find though, that in 1985, only 4 percent of all striking workers were replaced. This same statistic decreased to 3 percent in 1989. Recent data even shows that an extremely small portion of labor disputes actually result in a strike, and a vast majority are able to resolve the dispute. For example, from 1990-91, only three-tenths of 1 percent of the cases that went before the Federal Mediation Board resulted in a strike. Data just does not demonstrate that hiring replacement workers has become a common management practice nor a trend.

Although there have been several highly publicized strikes during the 1980's where replacement workers have been hired, these events should not warrant changing 50 years of labor law and destroying the balanced relationship between the needs of labor and management. This balanced relationship has produced relative harmony over the last 50 years. In fact, since 1935, there have only been two substantial changes to the original Wagner Act of 1935: The Taft-Hartley Act of 1947, and the Landrum-Griffin Act of 1959. This infrequency of making major, substantive changes in labor law reflects the general satisfaction toward our laws regarding labor and management relations. I ask, then, why is it necessary to make a change now? As demonstrated, the use of replacement workers has not become widespread. In what ways has the climate changed to warrant a major amendment to the National Labor Relations Act?

As I have mentioned, by confiscating a business' right to operate during a strike, businesses will be forced to accept bargaining agreements even if they are found to be unacceptable or financially impossible to sustain. These businesses will be left with two choices: acquiesce to the demands, even if it will ultimately destroy their competitive edge, or resist the demands and be forced to shut down. Either choice would irrevocably damage the health of large and small businesses alike.

Some say that businesses can sustain their operations during a strike by stockpiling, or by hiring temporary workers, or relying on management. That may be true in some cases. Maybe some large, highly profitable, companies could sustain their operations, but not indefinitely. However, small, rural and certainly struggling businesses, could not sustain their operations. Unlike large firms, these firms cannot afford to stockpile, or hire temporary workers. Furthermore, in rural areas, there may be a limited pool of skilled workers.

There is one other possible consequence of this bill which is often overlooked, but not by this Senator. As a farmer, I am highly aware of the impact this bill could have on the agricultural community. Too many farmers are often paid once a year, and that is when he moves his crop to market. If a crop cannot be moved to market because of a transportation strike, or if the crop cannot be processed because of a work stoppage at processing plants, the farmer will see his prices drop precipitously. From the farmer's point of view, such labor relations disputes would often become another factor impacting market prices, over which he has little control or no control. Farmers would effectively join the list of people who would be harmed during a protracted labor dispute.

In addition, the enactment of this bill could ultimately injure nonstriking workers and their families, whose livelihoods depend on a functioning, economically viable employer. Likewise, consumers, suppliers, and customers would suffer the burdens of increased strike activity and the harmful economic impact that would be generated by the bill.

As the economy struggles to recover during this hard hitting recessionary times and as the economic market grows more global and obviously more competitive, we simply cannot afford to implement policies that will retard growth and work against competition. What may appear to be a victory for some will ultimately be a failure for all.

There is one final reason why I cannot support this bill. It is just one more example of congressional hypocrisy.

Until last fall, Congress was not subject to 18 major pieces of legislation. Last fall, we corrected it for five major pieces, but Congress is still not subject to the requirements of the National Labor Relations Act.

Our employees—even the Senate restaurant employees—are not entitled to strike or negotiate over the terms or conditions of employment. But, of course, this is an old story. Mr. President, the NLRA is just one of the many laws we do not have to follow. We are great at setting the rules for everybody but ourselves.

Once again, up here on the Hill, we are a little conclave all to ourselves; one set of laws applying to the Congress of the United States and the rest of the laws applying to the entire Nation; one set of laws for Main Street America, and another set of laws for Pennsylvania Avenue, Washington, DC. Now that is wrong, and I hope, among other things, that eventually is going to be changed so that all those laws are applicable to Congress.

What then should we do to ensure that our workers earn a decent wage and can prepare for the future—their children's as well as their own? We need to be supportive of our businesses, and we need to enhance their competitive positions so they can offer employment opportunities. Labor and management must work together for their goals are really the same—productivity and strength in an ever-growing competitive market.

Many companies state that they cannot met a union's demands because of growing competition. This posturing often creates skepticism and cynicism toward the company's position. I would suggest that companies, more often than they do today, be willing to open up their books to labor and to their workers so that they can prove that if the demands of the striking workers are met the company will not be able to meet the competition, global competition, or even the domestic competition.

What we need to do is use the forum of this body, as well as public forums to enhance the relationship between labor and management, to get labor and management to become partners rather then competitors. We ought to try to establish closer working relationships between business and labor in this country, like our international competitors have. Those are things outside of public policy that can be done to make sure that our management, our corporations, our labor are competitive with our international competition.

I think, though, that this bill destroys the labor-management relationship and forces these parties into greater adversarial roles. Can we allow this to happen? Perhaps it is better to ask, can we afford to let it happen? I think the answer to that is "No." I decided it is no for this Senator and this is not a time to overturn 50 years of accepted labor law.

I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi [Mr. COCHRAN].

Mr. COCHRAN. Mr. President, I commend the distinguished Senator from Iowa for his eloquent statement and for his leadership on this and other issues before the Senate.

Federal labor law has been well settled on this issue for some time. Whether or not striking workers may be permanently replaced is determined by the circumstances of the strike.

In an economic strike, a dispute over wages, working hours, or other economic considerations, the Supreme Court in 1938 in the case of Mackay versus NLRB held that an employer may carry on his business with replacement workers and at the same time negotiate to settle the strike. He is not required, at the end of the negotiating period when the strike is settled, to bring back all the workers that have been replaced and give them all their old jobs back. The Court held that the returning strikers, though, would be eligible for any vacant jobs that existed and returning strikers could not be discriminated against by the employer in being hired for such vacant jobs on the basis of their union activity.

In the other circumstance, where a strike is undertaken because of an unfair labor practice or an unlawful activity by an employer, then the employer is not, under the law, permitted to replace workers. The Supreme Court has ruled in the case of Mastro Plastics versus National Labor Relations Board that the employer does not have the right to hire replacement workers in an unfair labor practice strike. The strikers have an absolute right, under the law as it exists now in such case, to reinstatement even if it means that they would displace new employees that have been hired by the employer during the strike or during the negotiations to settle the strike.

By prohibiting, as this bill would do, the use of permanent replacements for striking workers in an economic dispute, S. 55 would deny to employers the right to operate and carry on business during negotiations to settle the strike.

That is the issue. That is the question before the Senate. If this bill is enacted, an employer will find his negotiating position substantially changed, weakened, in effect, and union demands under these circumstances, when coupled with a strike threat, would be very difficult to turn down. So the balance in the collective bargaining relationship, the relative positions of power between the union negotiators and the negotiators for management would be altered substantially, and this would be the first change in the law that would have occurred since 1938 when the Supreme Court handed down its decision in the Mackay case.

Without the right to hire permanent replacements to keep a business operating during a strike over economic issues, an employer would be left to choose between giving in to the union's demand for wage and benefit increases, no matter how out of line they may be, or suffering the financial loss that would surely result from reducing or shutting down operations.

As Secretary of Labor, Lynn Martin, pointed out in a letter to me last June, the changes in S. 55 would be contrary to the public interest. The bill would destroy a key component of the economic balance between labor and management in collective bargaining and remove an important incentive for both parties to negotiate and compromise.

A 1991 study by the General Accounting Office found that only 3 to 4 percent of strikers are actually permanently replaced.

Mr. President, strikes are costly to both sides in a labor dispute, and the balance that exists under current law ensures that both management and labor willfully and carefuly weigh those costs in negotiating a settlement and avoiding a strike. A prohibition on hiring permanent replacement workers will not foster compromise but, to the contrary, will provide one side with a powerful weapon to force its demands on the other.

The law should operate to give both sides a fair shake at the bargaining table. This balance is an effective insurance policy against labor unrest, disruptions in commerce, and the anticompetitive effects of inflationary collective bargaining agreements. At a time when we ought to be searching for ways to foster more economic growth, to promote business expansion, to create more jobs, we ought not to act to pass legislation that makes it harder to achieve those goals.

The economic consequences of S. 55 could be very serious. The risks to the economic prospects of our country are too great. The Senate should not pass this bill.

Mr. President, I ask unanimous consent that a copy of the letter I referred to from the Secretary of Labor, Lynn Martin, dated June 18, 1991 be printed at the conclusion of my remarks.

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

DEPARTMENT OF LABOR,
Washington, DC, June 18, 1991.

Hon. THAD COCHRAN,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR COCHRAN: It is my understanding that on June 19, 1991, the Senate Committee on Labor and Human Resources will consider S. 55. In light of the serious economic implications raised by S. 55, I am writing to express the Administration's policy objections to this bill. If S. 55 were presented to the President, his senior advisors would recommend a veto.

As you know, the principal objective of S. 55 is to amend the National Labor Relations Act and the Railway Labor Act to prevent an employer from offering permanent jobs to replacement employees during labor disputes. The bill would also prohibit an employer from offering or granting "any employment preference" to an individual based on the fact that the individual was employed or indicated a willingness to be employed during a labor dispute.

We strongly believe the changes to the collective bargaining system contained in S. 55 would be contrary to the public interest. By insulating employees from the traditional risks that check precipitous strikes, the bill would destroy a prime component of the economic balance between labor and management in collective bargaining and remove an important incentive for both parties to negotiate and compromise. S. 55 would promote labor unrest, disrupt the flow of commerce, expose our economy to anti-competitive effects of inflationary collective bargaining agreements, and adversely affect non-striking workers, customers, suppliers, and consumers. Also, no data support such a fundamental change in our nation's labor policy. A 1991 GAO report found that only three to four percent of strikers are permanently replaced. Those figures do not take into account strikers who are reinstated after the conclusion of the strike.

I understand an amendment may be offered at the June 19 markup purporting to remove non-union employees from S. 55's coverage. A "union-only" amendment will not change the major thrust of the legislation, and thus would do nothing to diminish the Administration's objections to the bill.

Indeed, any "union-only" amendment would have uncorrectable problems. Such an amendment would establish an untenable double standard for union and non-union workers. And, of course, a "union only" amendment does nothing to diminish the inherent negative economic consequences of S. 55 on non-union suppliers and customers of unionized businesses. Further, if the Senate amendment closely resembles the House committees' version, it will contain terms so vague that the bill's provisions could be interpreted to apply to situations that do not involve traditional unions and to prohibit non-union employers from using permanent replacements to continue their operations in the face of recognitional picketing by union supporters.

For the foregoing reasons, the Administration strongly opposes the enactment of S. 55. As I have stated previously, if this bill were presented to the President, his senior advisors would recommend a veto.

The Office of Management and Budget advises that there is no objection to the submission of this letter and that enactment of S. 55 would not be in accord with the program of the President.

Sincerely,

LYNN MARTIN,
Secretary of Labor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I rise in support of this legislation. I heard my good friend, Senator GRASSLEY from Iowa, say that we have had balance in labor management relations for the last 50 years. I wish I could agree with him. I think we have had balance up until recently and then things got out of whack.

Oh, yes, when you had a Democratic administration there was a slight tilt in the National Labor Relations Board toward labor, and when you had a Re-

publican administration there was a slight tilt toward management. But starting with the Reagan Presidency, it was, frankly, just not balanced. And one of the things that has happened—and I am not sure that that is the total reason. I think there are other factors. But one of the things that has happened is striker replacement.

Permanent striker replacement, which traditionally has not been part of how free nations operate and has not been part of how we operate in the United States, suddenly has emerged. In the last 5 years one-third of threatened strikes had this aspect of striker replacement.

Among other things, Mr. President, it just is not good business. I think that is one of the things which is very clear.

Now, for a plant employing 25 or 30 people, I do not know the statistics, but I know when you look at Eastern Airlines, when you look at Greyhound, when you look at major corporations, it, frankly, has not been a successful business endeavor to do this.

Let me just add one other point because I do not know that this has come out here or not. It also eventually leads to very frayed feelings in the community and I think will in some cases lead to violence.

I visited in Peoria with workers and with management when Caterpillar had a strike, and there was the threat of permanent replacements. I talked to men and women who had been working there 26 years, 28 years, who felt that they had invested their lives in that company, and then see people threatening to come in and permanently replace them. Let me tell you, the unions did everything to discourage that, so did management, but if Caterpillar had gone ahead with that I think there would have been violence in the communities, particularly Peoria, IL, where you had that.

What about other countries? The United States, Great Britain, and South Africa to my knowledge are the only Western industrialized countries that permit it. Just north of us in Quebec, for example, in Canada, you cannot even have temporary replacements. Countries that outlaw include Belgium, France, Germany, Greece, Italy, Japan, The Netherlands, and Sweden.

I also hear from some that we have to recognize we are going to have to depress wages with every mechanism we can because that is discouraging trade with other countries. My friends, what is discouraging trade with other countries is the fact that we have not had industrial investment in this country.

I mentioned this morning in speaking of the balanced budget amendment. In 1986, just 6 short years ago, the average American worker working in a manufacturing plant got more money than any manufacturing worker anywhere in the world. Now there are 11 countries that have higher average manufacturing wages per hour. Interestingly, each of those 11 countries has a better trade picture than the United States.

We have through our economic policies, and particularly through our huge Federal deficit, discouraged investment in American businesses, and so we have lost productivity. That is the reality. It is not high wages. You are going to compete in the world with high skills or low wages, and we are trying to move into the low-wage area.

Listen, Mr. President, to this editorial, and let me just read the first paragraph and the last paragraph endorsing this legislation. It says: "How would it feel to negotiate a deal with a loaded gun pointed at your head? That is the position in which many labor unions find themselves during collective bargaining talks with employers." Then the last paragraph: "For more than 50 years, the Untied States has followed a sound labor policy that encourages negotiated settlements. Allowing employers to fire their workers instead of negotiating with them makes a mockery of that policy."

Where did that appear? Is that a labor newspaper? Some affiliate of the AFL–CIO? My friends, this appeared in the Journal of Commerce, and I ask unanimous consent to have that printed in the RECORD.

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

[From the Journal of Commerce, Mar. 18, 1991]

REPLACEMENT WORKERS

How would it feel to negotiate a deal with a loaded gun pointed at your head? That's the position in which many labor unions find themselves during collective bargaining talks with employers.

Despite a series of federal laws that promote balance between unions and management, employers today hold a decided advantage in most labor talks. Why? Because management can hire permanent replacements for striking workers. If negotiations are stalled, employers essentially can fire the strikers and bring in new workers. The only way Congress can correct this imbalance is to bar employers from hiring permanent replacements for strikers.

A bill sponsored in the House by Rep. William Clay, D-Mo., would do just that. The legislation, the chief goal of organized labor, understandably has drawn fierce opposition from employers. Labor Secretary Lynn Martin has vowed that President Bush will veto the measure if it reaches his desk. But with some creative leadership in Congress, the bill can be modified to satisfy union concerns and solve some of management's problems as well.

Congress first set standards for labor-management negotiations in 1935 when it passed the National Labor Relations Act. The purpose of that law was clear: "to restore equality of bargaining power between employers and employees." The law gave both sides powerful economic weapons. Employees have the right to strike and employers have the right to lock workers out. Employers can continue to run their businesses during strikes and employees can take jobs elsewhere or receive strike pay from their unions.

The law also bars management from firing workers who strike. But three years after the act was passed, the Supreme Court gave employers the right to "permanently replace" workers who strike. The court never explained the difference between firing a worker and permanently replacing him. It is a distinction without a difference.

Until the 1980s, employers seldom exercised their option of permanently replacing strikers. But after Ronald Reagan fired striking air traffic controllers in 1981, the practice increased. Since then, permanent replacement workers have been a lightning rod in ugly labor disputes involving International Paper, Eastern Airlines, Greyhound Lines and, most recently, the New York Daily News.

Employers have an unquestioned right to hire temporary workers—or to use supervisors—to replace strikers. Without this right, which is preserved in the Clay bill, employers would have no leverage to force workers to continue negotiating. But allowing management to permanently replace strikers does not encourage the parties to reach a settlement. Rather, it allows one side, management, to eliminate the other side, labor.

A recent report by the General Accounting Office shows that employers threatened to hire permanent replacements in one-third of the strike that occurred in 1985 and 1989, the two years studied by researchers. Permanent replacements actually were hired in about 17% of those strikes. GAO says most employers and workers it interviewed believe permanent replacement workers were hired more often in the 1980s than in the preceding decade.

If Congress bars the hiring of replacement workers—and it should—an important management concern should be addressed as well. Employers often are reluctant to hire temporary replacement workers because of threats and violence from organized labor. Union miners fired shots at replacement workers during recent coal strikes. Buses filled with passengers were fired upon during the Greyhound strike. The striker replacement legislation should be amended to provide stiff penalties for union members who engage in such terrorist tactics but often go unpunished.

For more than 50 years, the United States has followed a sound labor policy that encourages negotiated settlements. Allowing employers to fire their workers instead of negotiating with them makes a mockers of that policy.

Mr. SIMON. Mr. President, I would also like to have printed in the RECORD a column by Doug Smith in the Arkansas Gazette, in which he says:

The problem is that the balance of power has become an imbalance of power, because companies more and more are continuing to operate during a strike by permanently replacing striking workers.

I ask unanimous consent to have that printed in the RECORD.

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

[From the Arkansas Gazette, Mar. 17, 1990]

UNIONS NEED HELP TO RESTORE BALANCE

(By Doug Smith)

Some labor people don't like to admit it, but without government help, labor unions have never been able to match up with big

companies in labor-management disputes. Management has the big money, and big money does indeed speak loudly, except when shushed by big government.

So laws were enacted to keep management from crushing labor. The laws, and some managers' respect for their workers, kept labor and management more or less in balance for a while.

Now labor needs government help again. The AFL–CIO's number-one goal in Congress is passage of a bill that would ban the permanent replacement of striking workers and prevent employee discrimination based on participation in a labor dispute. Rep. William L. Clay of Missouri and Sen. Howard Metzenbaum of Ohio, both Democrats, have introduced the bill.

The problem is that the balance of power has become an imbalance of power, because companies more and more are continuing to operate during a strike by permanently replacing striking workers.

This is an option that was always available but was used relatively infrequently. Management more likely would rely on management personnel and temporary replacements of striking workers to keep the plant open.

That the striking workers would eventually return, whether the strike was won or lost, was understood by both sides and was part of the symmetry of labor-management relations. Management claimed the right to lock workers out at the risk of losing profits; labor claimed the right to withhold its services, at the risk of losing income. But when the worker knows that he faces permanent loss of his job, his willingness to strike is diminished. A labor force without the threat on a strike is almost a captive labor force.

"The right to strike is critical to the success of our collective bargaining system," Clay says. "The effective right to workers to withhold their labor as leverage during negotiations is an essential element of bargaining. As workers have felt increasingly unable to strike, faith in collective bargaining has been seriously undermined."

This trend is partly just a reflection of some managers' desire to get rid of unions.

But the man who really legitimized their actions was Ronald Reagan. Union-bashing was one of many baser American appetites to which he pandered. When some 12,000 federal air traffic controllers went on strike in 1981, Reagan fired the whole lot, filled their jobs with permanent replacements, and the union collapsed.

Since then, the practice of replacing striking workers has increased dramatically.

Labor unions have meant much to this country, improving the lot not only of their members but of working people generally. Workers receive better pay and retain more of their dignity because of what unions have done. But the unions are down now, their membership and influence declining, partly because of bad business decisions made by managers who never have to suffer for them.

It's a rule of the free-enterprise system that the best time to kick a man is when he's down. Management will try very hard to defeat the Clay-Metzenbaum legislation, and management spends more on politicians than labor does.

Management spent a lot on George Bush, who will probably veto the bill if it reaches his desk.

Reagan was anti-union out of ignorance, mostly. Bush was born to the part.

Mr. SIMON. Mr. President, I point out that to my knowledge the religious community, those who have taken stands on this, have endorsed this; civil rights groups have; people who have been experts in this field, like former Labor Secretary Ray Marshall, have. But beyond that the real experts, the workers themselves, will understand this. There are a lot of bills that we get involved in here like situs picketing—most men and women who work out there do not understand the technicalities of it. This is one they do understand. They are looking to us for leadership.

Finally, Mr. President, let me add there is another reason. I favor this, because what is being used as another tool to discourage people from joining organized labor is not a healthy thing in this country in terms of distribution of income, and in terms of what people can do in terms of helping on policy. Let me just read: In the United States, 16 percent of working men and women today belong to organized labor. Let me give you the comparisons with other countries. Denmark, 95 percent; Finland, 85 percent; Sweden, 96 percent; Belgium, 77 percent; Germany, 43 percent; France, 28 percent; Canada, 36 percent; Australia, 56 percent; New Zealand, 46 percent; Ireland, 51 percent; Switzerland, 33 percent; Norway, 61 percent; Italy, 45 percent; United Kingdom, 50 percent; Austria, 61 percent; Japan, 28 percent; Netherlands, 35 percent; and, the United States, 16 percent.

What is wrong with that? Aside from not protecting workers as we should be protecting them, there is this policy problem. We passed Social Security in large part because organized labor in this country got behind it and pushed it. We passed child labor laws for the same reason. We passed minimum wage for the same reason. I could go on.

Basically, the constructive legislation that has emerged in this country—much of it—has been because organized labor has been strong enough to come up here, not to muscle us, but to have an effective voice so that Members of the Senate, whether we come from Utah, or Hawaii, or California, or Connecticut, Illinois, or any other State we come from, we listen to them. That voice has been weakened.

My own feeling is if we had the same percentage of working men and women in organized labor in the United States that Canada has, these other nations I just cited, I think we would have national health care in this Nation today. I think we would have a number of other things that would be very important to the future of our country.

I think this bill is needed legislation. It moves us back to a sensible kind of balance in labor-management relations. I hope we will seriously look at this, and pass the legislation.

I yield the floor.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California [Mr. CRANSTON] is recognized.

Mr. CRANSTON. Mr. President, I rise today to urge passage of S. 55, the pending measure. This is a bill that will protect American workers' right to withhold their services without the threat of being permanently replaced in their jobs.

Since the passage of the National Labor Relations Act in 1935, employees and employers alike have held the right to engage in self-help activities. In other words, employees were granted the right to strike. Unfortunately, this right has been severely eroded.

During the 1980's, the tremendous growth in the hiring of permanent replacement workers has had the effect of putting workers in the position of choosing between their collective bargaining rights or their jobs. S. 55 will restore the American worker's collective bargaining right that is the cornerstone of equity in the workplace, the cornerstone of fairness in the workplace.

In 1981 President Ronald Reagan fired and permanently replaced 12,000 striking air traffic controllers. With this decision, Ronald Reagan ended what had been nearly 50 years of balance in labor relations and gave Presidential approval to the practice of replacing workers who withhold their services. Since 1981, many employers have used aggressive and often hostile tactics in solving labor disputes. Union busting has replaced negotiations as the primary strategy for some unscrupulous employers.

The importance of unions, both historically and currently, cannot be overemphasized. It was the formation of unions and the workers' ensuing collective power that guaranteed millions of workers safe workplace conditions, fair wages, health benefits. Unions continue to protect the rights of millions of workers particularly women and minorities who have historically not been extended workplace equity.

Through collective bargaining, workers of Hispanic origin who are represented by a union receive nearly 47-percent higher wages—47-percent higher wages—than those without such representation, and black workers with collective bargaining rights earn 42-percent more—42 percent more—than their unrepresented counterparts. Collective bargaining is also of particular importance to women. Those represented by a union receive 35 percent higher wages than nonunion female workers. The disparity in pay for white males with union representation and those without union representation is not even close to what it is for women or minorities. Unions have been one of the few vehicles available to the underrepresented in addressing issues of equity and fairness.

Mr. President, workers and employers alike do not like to participate in labor disputes. Workers certainly do not cherish the idea of losing income,

or standing on picket line hour after hour, day after day. And workers do not strike merely to do damage to their employers. Striking is a last resort tactic that must be available to working men and women to ensure that good faith negotiations take place.

Prior to the 1980's, good faith negotiations were more the rule than the exception. Replacing striking workers was not considered an option by most employers. Employees were seen as people who had invested their sweat and toil to build and maintain a business, not merely as an expendable asset. S. 55 does not prevent businesses from hiring temporary workers. Moreover, the notion that unions are out to ruin business is totally unfounded. Workers do not get paid while on strike and will not profit from the demise of an employer. Two of our biggest competitors, Japan and Germany, do not allow the replacement of striking workers. In fact, the only industrial nations to allow this practice are South Africa and Great Britain.

S. 55 will restore the atmosphere in which good faith negotiations can flourish. I urge my colleagues to join me in support of this legislation that will ensure that the right to collective bargaining will be preserved. The choice that some employers now give their workers is the choice between accepting what is offered or being replaced in their jobs. That is an ultimatum, not a choice.

I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that I be permitted to proceed as in morning business for up to 10 minutes.

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

PRIVILEGE OF THE FLOOR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Mr. Tor Cowan of my office be permitted the privilege of the floor for the remainder of my remarks.

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

TOR COWAN SERVED SENATE WITH EXCELLENCE

Mr. LIEBERMAN. Mr. President, Tor Cowan has worked with me for most of the 3½ years I have been privileged to be here. He is about to depart to begin graduate studies at Syracuse University. I am honored to have him on the floor with me at this moment, as I have been pleased to have him with me in the Senate for these 3½ years.

Tor has served with excellence and with good spirit. We will miss him, and I wish him well in his future endeavors, which I am sure will be successful.

NEWS FROM BOSNIA-HERZEGOVINA APPALLS THE WORLD

Mr. LIEBERMAN. The news from Bosnia-Herzegovina continues to appall the civilized world. Starvation seems imminent, as the means of distribute food around Sarajevo has been obliterated, and, most chilling, Serbian militia forces have switched off pumps that supply water.

There is the incessant bombing: indiscriminate, terrorist bombing designed to achieve no military goal—designed only to inflict pain on innocent lives. As reported in the New York Times, Bosnian officials have obtained a tape recording of a Serbian general's order to bombard residential districts around Sarajevo. "Burn it all!" he proclaims to his commanders in the field.

That Serbian general is reflecting the intent of his commander in chief, Slobodan Milosevic, the President of Serbia, whose dream of a Greater Serbia is beginning to sound like other dictators' dreams of conquest at any cost.

Will the civilized world stand by and simply observe this slaughter? Are we to remain idle until some kind of cease-fire is reached before we can act to relieve the suffering? After too long a period of dormancy, the Bush administration has begun to react to the crisis in Bosnia, with Secretary Baker leading the way for the U.N. Security Council to impose economic sanctions. But such economic and diplomatic penalties may have no more impact on Milosevic than they did on Saddam in 1990. Like Saddam, he has proven himself willing to impose terrible suffering on his own people to achieve his vision of a Greater Serbia. And Serbia easily feeds itself and generates enough electricity to export. It also produces about 30 percent of its oil needs. Its borders are porous. If the sanctions cannot be strictly enforced, Milosevic is unlikely to accept a permanent ceasefire and withdraw his troops from Bosnia.

A while ago when asked by a journalist what the world could do to end her people's suffering, a 70-year-old Moslem woman living near Sarajevo said, "Send your planes—it is the only way to stop Serbia." Her words were recently matched by Bosnian President Alija Izetbegovic, who is quoted as saying, "We need urgent military help. Force can be countered only by force." He is asking America to send fighter jets to bombard Serbian positions in the hills around Sarajevo.

There are, indeed, steps we and our European allies can take to step up the pressure on Milosevic's forces, and to convince him that the bargaining table is the only viable alternative he has to international isolation and eventual destruction of his economic and military might.

At the outset, a military coalition led by Europeans should use helicopter gunships and other fighter aircraft to secure the airport at Sarajevo for U.N. peacekeeping forces, to accompany convoys of humanitarian relief for Bosnia, to airdrop food supplies, and to protect refugees seeking to escape the killing. U.N. Security Council should authorize these measures.

Second, the coalition should mount a naval blockade to enforce U.N. sanctions, order to closing of Serbian air space, as was done in Iraq, and fly fighter aircraft over Belgrade. These steps should demonstrate to Milosevic and his people how isolated and vulnerable they are.

Fourth, the United States and its European allies should declare our intent to send arms to the duly elected Bosnian government.

And fifth, coalition air strikes against Serbian air fields and military bases, such as the Batajnica airbase should be considered as a last resort if Serbian attacks on Bosnia do not end.

The military coalition would be best organized under the umbrella of NATO, which has highly mobile forces that have trained for decades for a wide range of contingencies. NATO representatives recently agreed for the first time to permit their forces to carry out military actions in non-NATO Europe. Such leadership by NATO will help preserve its relevance in the post-cold war era.

An incremental and sustained leveraging of international military force, accompanied by economic sanctions, could break the will of the Belgrade regime, as well as its ability to use force against Bosnia. The Milosevic would be forced to come to the bargaining table and engage in serious negotiations to frame a peaceful solution to the region's ethnic divisions.

Any discussion of allied military involvement in Yugoslavia will be challenged by those who say the United States has no interest in what happens to Moslems, Croats, Serbs, or Albanians in small countries so far away. But history is littered with the bodies of Americans who have died when we let European brushfires go unattended. And the brushfire in Bosnia is just the hottest of many that could erupt in lands trying to make their way from communism to democracy.

If Milosevic succeeds in Bosnia, a wider war in the region is possible. Milosevic's regime may encourage the Serbian minority in Kosovo to take action against its Albanian majority. That could draw Albania, and possibly Bulgaria and Greece, into the conflict. The same powers might also fight over territorial spoils in the neighboring republic of Macedonia. Success in Bosnia could also encourage Milosevic to renew attacks in Croatia.

Failure to contain Milosevic could also have repercussions throughout the former Soviet Union. Ethnic conflict is rife in Moldova and Georgia. Continued fighting between Armenians and Azerbaijanis might draw in Russia, Turkey and Iran, which Marshall Shaposhnikov, the military leader of the Commonwealth of Independent States [CIS], warns could lead to World War III. And Russia and Ukraine, both nuclear powers, continue to argue ominously over Crime.

While there is not a linear connection between events in Bosnia and the future of these conflicts among countries of the former Soviet Union, common sense tells us that the manner in which the Western nations react to Serbian aggression will affect the plans of those who are considering violence in other places once dominated by the Soviets.

As Cyrus Vance put it in testimony before the Governmental Affairs Committee this Tuesday, "our national security is diminished incrementally by each unmet act of aggression, by each failure of international diplomacy, and by each disregard of international legal and human rights norms. * * * Our global economic interests, as well as our democratic and human values, depend on the containment of local ethnic, tribal and religious violence, just as they once did on the containment of communism."

Because the stakes are so high, it is time to draw another line—this time in the Balkans—and to say that Milosevic's aggression must not stand. Unlike the gulf war, the United States should not be in charge, but, as a member of NATO, we must participate actively, just as the British and the French did in Operation Desert Storm.

Seventy-eight years ago events in Sarajevo ignited a conflagration that led to World War I. The Balkans are no longer the focus of a great power rivalry, but the actions we take, or fail to take, to deal with the crisis there in the coming weeks and months will help establish the rules of the post-cold war era, and will determine whether we truly enjoy the full fruits of our victory over communism.

If that means heeding the Bosnian woman's plea to "send your planes," a plea echoed this week by Bosnia's president, that is the price the West must be prepared to pay if we are to have the peace and freedom we fought so long to secure for ourselves and the world.

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

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

Mr. AKAKA. Mr. President, I ask unanimous consent that I be permitted to speak as though in morning business for 5 minutes.

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

THE EARTH SUMMIT IN RIO DE JANEIRO

Mr. AKAKA. Mr. President, the eyes of the world have been focused on Rio de Janeiro, where leaders from all nations have assembled to debate the fate of our planet Earth. As the largest-ever gathering of world leaders, the Earth summit is evidence of a growing realization that environmental problems transcend political borders and must be addressed in a holistic manner. We have finally come to see our planet as it really is: not a collection of sovereign nations, but a global village with common problems.

The ambitious agenda for the Rio summit has been driven by the recognition that we are on a collision course with the planet we inhabit. Without question, the Earth summit represents a defining moment in world affairs. As Maurice Strong, the summit's secretary-general, declared at the outset of the conference, "The people of our planet, especially the young and the generations which follow them, will hold us accountable for what we do—or fail to do—in Rio."

Measured by this test of accountability, the Bush administration's performance in Rio de Janeiro must be judged a failure. Time and time again, United States intransigence in the face of near-universal agreement on Rio's environmental accords has made us the focus of international scorn at the Earth summit.

The United States, which pioneered protection of the environment, appears to have abdicated leadership in this field.

First, the administration succeeded in significantly watering down the global climate treaty binding governments to control emissions of greenhouse gases. Scientists warn us that carbon dioxide and other greenhouse gas emissions could cause a potentially catastrophic warming of the Earth's atmosphere and a corresponding rise in sea level—a phenomenon which strikes fear in the hearts of island and coastal communities.

Among the world's industrialized nations, only the United States refused to commit itself to stabilizing emissions of carbon dioxide at 1990 levels by the year 2000. Brandishing the threat that President Bush might boycott the summit, administration negotiators strong-armed other nations into limiting the climate treaty to voluntary emission reduction goals. Our country is the source of nearly one-quarter of the world's carbon dioxide emissions, and if the United States will not agree to anything other than voluntary goals, no one should expect anything more than voluntary results.

Next, the administration sought to stifle efforts by other industrialized nations, primarily Japan and the European Community, to join together in a declaration by like-minded nations on the subject of greenhouse gases. Such an agreement is intended to serve as an adjunct to the global climate treaty, and represents a commitment by participating nations to achieve what the United States successfully excised from the treaty, that is, the stabilization of emissions by the year 2000.

Finally, the administration refused to sign the compact to protect plants, animals, and natural resources—known as the biodiversity treaty—because of its desire to shield the U.S. biotechnology industry from competition. When you examine his record at Rio de Janeiro, President Bush looks more like James Watt than the environmental President he claims to be. His message is clear: "Do as I say, not as I do."

The United States failure to sign the biodiversity convention is an especially disturbing development. In rejecting this treaty, the Bush administration professed a desire to preserve economic development opportunities for U.S. industry. What the administration fails to recognize is that there can be no economic development without biological diversity.

Experts on biodiversity estimate that as much as 20 percent of the Earth's plant and animal species may disappear in the decades ahead. Given that natural organisms are the source of nearly three-quarters of all medicines, the loss of biological diversity has grave implications for the quality of life on Earth. When these species disappear, so do the cures for the ills that plague us. As my colleague, Senator MITCHELL warned in his book "World on Fire," "When we let species become extinct, we foreordain our own extinction."

Nowhere is the significance of the biodiversity convention more apparent than in Hawaii. Hawaii is famed for its unique natural heritage. No other place on Earth has a higher percentage of unique plant and animal species. Nearly 100 percent of Hawaii's invertebrate species, and 90 percent of its birds and flowering plants are endemic, making Hawaii home to over 10,000 life forms found nowhere else on the globe.

The ability of the science to contribute to human welfare rests in large part on the knowledge waiting to be discovered in the tropical forests. Yet Hawaii has already lost most of its original tropical forests, half of its original bird species, and an untold number of other wildlife and plants.

Despite the best efforts of our conversation community, the outlook for our native flora and fauna continues to be bleak. The Hawaii Tropical Forestry Recovery Act is one legislative solution I have proposed to confront Hawaii's biodiversity problems. But legislation from Congress cannot substitute for a global compact to preserve biodiversity.

MORNING BUSINESS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that we have a period for morning business with Senators permitted to speak therein.

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

FORESTRY

Mr. FOWLER. Mr. President, the long-awaited Rio conference on global environmental issues is underway, and we are all pleased that our President finally decided the United States should be represented at our highest level.

Nevertheless, I share the concern expressed by many of my colleagues that President Bush still may not be serious about having the United States fully participate with the leadership and vision others look to our country to provide. There has been precious little progress in the advance negotiations leading up to the Rio conference, not to mention the record of achievement these past few years in our country.

I am not here, however, to engage in any kind of partisan debate or name calling. The Rio conference is too important to let slip by as we point fingers at one another. More than 150 countries are represented in Brazil because they recognize this is a special opportunity that may not come again in our lifetime, and I want to make sure our Nation's role is one that furthers the chance of progress.

Some of the differences between the poorer and richer countries already are so great that agreement on a particular course of action is extremely difficult. I am convinced that if we wait much longer the gulf that divides some of the nations of the world will grow so great that progress will be impossible, leading to a total breakdown for a global approach to addressing environmental and health problems.

The administration has indicated that it views deforestation as perhaps the most promising area in which the United States hopes to achieve results in Rio. Indeed, the President spoke out a couple days ago to argue that while the United States continues to oppose signing the biodiversity treaty, we already have taken action in that area by virtue of forestry policies already in place as well as those newly proposed.

Deforestation certainly is a component of the larger set of biodiversity issues, although action on that front is no substitute for the treaty under discussion. I want to focus some brief remarks, however, on the forestry issues touted by the President as ones which he believes we have made the greatest environmental strides and on the policies of which he is most proud.

I thank my colleagues for granting me the indulgence of reiterating just how important an issue this is. Most of us, certainly the U.S. Senate, are not scientific experts, so it helps to be reminded that trees serve as this planet's lungs. The President's proposal last week to add $150 million per year to the international fund to prevent further deforestation is a step in the right direction, but again one wonders about how serious the administration can be given the lack of initiative shown in our own country.

If the President wants to start fresh and demonstrate a new commitment, I, for one, welcome it and pledge to work with him, but the proof has to be in the pudding. Action, not words—that is what the American people are looking for, and it is a fair standard by which to measure any policy in any administration.

So let me suggest a couple of items where the administration could begin demonstrating with concrete action a genuine environmental commitment. Presidential leadership in these areas would be decisive.

First, the Forest Service has proposed a new plan that would eliminate the public appeals process following timber sales decisions. This does not even get into the argument about the merits of how we have turned a blind eye toward a decades-long policy of allowing private companies to clear cut our public forests, our national forests. The American public would be scandalized if they understood the extent to which this has taken place.

No, I am just talking about the administration reversing a policy in effect since 1907 that allows the American public the right to appeal timber sale decisions on their public lands. And the Forest Service is trying to do this even though they have in their possession internal documents and studies from senior level regional field managers who argue against this course of action.

It seems to me this is a gratuitous power play effort of some kind—frankly, I would say it would not be believable except that the Forest Service so far seems unwilling to budge even after being inundated with many thousands of letters from a public rightfully outraged. Given the President's emphasis on a progressive forestry policy, I hope the Forest Service gets the message and returns to the American public the right they have enjoyed for 85 years.

Second, I ask the President to help us end the practice of below cost timber sales. The Forest Service itself admits we lose money on many of these sales in which we do not even recoup the cost of managing the forests—and I use the word managing loosely. I am not sure Mr. Webster would be so generous in defining our policy that way when, essentially, we are subsidizing at taxpayer expense the cutting down of American forests.

How can we be credible in Rio if we do not end this abusive practice right here at home? Mr. President, let us work together on behalf of the American public to end this senseless practice.

Finally, the President can prove the skeptics wrong by reducing the administration's request for further road building throughout our national forests. We already have 370,000 miles paved into forests—that is nine times the size of the entire U.S. Interstate Highway System. What will the President's counterparts in Rio think when they learn the American Government shells out millions of taxpayer dollars to cut down more trees, more deforestation in our country?

According to a report by the Congressional Research Service, road construction is the most environmentally damaging aspect of our country's timber program. Roads destroy fish and wildlife habitats, disturb migration routes, and degrade water quality. I could go on and on. Roads and road-building cause more erosion and sedimentation than logging or forest fires together.

The American public surely has had enough of these policies and, I am happy to say, it sounds like the President wants to move us forward on these issues. We can take concrete actions today to prevent further deforestation at home. Responsible stewardship demands no less, and it seems to me President Bush, pushing forestry front and center on his environmental agenda, ought to be ready now to take these first small steps.

Just the other day, in a Washington Post article entitled "Put the Forests First", White House counselor Boyden Gray wrote for the administration about the President's commitment to the environment. Gray's closing paragraph reads:

> In Rio, the delegates should seize on the chance to do first things first: Arrest the decline of the Earth's forests now.

In the spirit of the Rio conference that our President is about to attend, I implore the President to take his counsel's advice, do put first things first and act decisively to save America's forests now. Let us set aside partisanship and work together to do what is best for our forests, our parks, our country and the result will be a betterment for our world.

CONCERNING THE 25TH ANNIVERSARY OF THE REUNIFICATION OF JERUSALEM

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Concurrent Resolution 113, a concurrent resolution concerning the 25th anniversary of the reunification of Jerusalem and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 113) concerning the 25th Anniversary of the reunification of Jerusalem.

The concurrent resolution (S. Con. Res. 113) is as follows:

S. CON. RES. 113

Whereas for three thousand years Jerusalem has been the focal point of Jewish religious devotion;

Whereas Jerusalem is also considered a holy city by the members of other religious faiths;

Whereas the once thriving Jewish majority of the historic Old City of Jerusalem was driven out by force during the 1948 Arab-Israeli War;

Whereas from 1948 to 1967 Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan;

Whereas in 1967 Jerusalem was reunited during the conflict known as the Six Day War;

Whereas since 1967 Jerusalem has been a united city administered by Israel and persons of all religious faiths have been guaranteed full access to holy sites within the city;

Whereas this year marks the twenty-fifth year that Jerusalem has been administered as a unified city in which the rights of all faiths have been respected and protected;

Whereas in 1990 the United States Senate and House of Representatives overwhelmingly adopted Senate Concurrent Resolution 106 and House Concurrent Resolution 290, declaring that Jerusalem, the capitol of Israel, "must remain an undivided city";

Whereas subsequent statements by the Government of the United States, including support for United Nations Security Council Resolutions 681 and 726, have raised understandable concern in Israel that Jerusalem might one day be redivided and access to religious sites in Jerusalem denied to Israeli citizens of all faiths and Jewish citizens of other states; and

Whereas such concerns inhibit and complicate the search for a lasting peace in the region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) congratulates the residents of Jerusalem and the people of Israel on the twenty-fifth anniversary of the reunification of that historic city;

(2) strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected as they have been by Israel during the past twenty-five years; and

(3) calls upon the President and the Secretary of State to issue an unequivocal statement in support of these principles.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MOYNIHAN. Mr. President, I am pleased that 63 of my colleagues have joined the distinguished Senator from Oregon [Mr. PACKWOOD] and I in supporting Senate Concurrent Resolution 113 which congratulates the residents of Jerusalem and the citizens of Israel on the 25th anniversary of the reunification of Jerusalem during the Six-Day War. The resolution also contains the elemental proposition that Jerusalem must never be divided again.

In January 1990 I traveled to the Middle East in my capacity as chairman of the Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs. While I was in Israel I met with a broad cross-section of Israeli political and communal leaders and found that they had many different views on the peace process. There were, however, two things on which they all agreed: Their desire to see a meaningful and secure peace between Israel and her Arab neighbors and their anguish over the continued confusion of American policy concerning the city of Jerusalem. As a result of that visit I submitted Senate Concurrent Resolution 106 which the Senate overwhelmingly adopted, declaring that Jerusalem, the capital of Israel, must remain a united city.

Since that time, events have only served, I fear, to heighten the legitimate concern in Israel over United States policy toward Jerusalem. Despite Israel's staunch support during the Persian Gulf war—a war unrelated to Israel's disputes with its neighbors which nonetheless brought terror pouring down from the skies on the innocent civilians of Israel—the United States supported not one but two Security Council resolutions—Resolution 681 and Resolution 726—which describe Jerusalem as "occupied Palestinian territory." Resolution 726 also "strongly condemns" Israel, language which is considerably stronger than any used by the Security Council to condemn Iraq's invasion of Kuwait. In fact, only once during the entire Persian Gulf crisis did the Security Council use such language to condemn Saddam Hussein, and that only when he committed gross crimes against humanity by rounding up human shield hostages and besieging diplomatic facilities.

We were far too passive in May 1948 when the Jordanian Arab Legion drove the once flourishing Jewish majority out of the Old City at gunpoint. We were too passive when Jerusalem was divided by barbed wire, mine fields, and cinderblock walls. Two years ago I declared that President Bush's statements and policies "raise the frightful irony that a President who only four months ago celebrated the collapse of the Berlin Wall and the opening of the Brandenberg Gate might encourage the redivision of Jerusalem and the reimposition of the infamous Mandelbaum Gate."

Israel must make sacrifices for there to be peace in the Middle East. Yet no Israeli Government will continue to participate in a process which it believes might end with the dismemberment of Jerusalem.

We would do well to remember that the Jewish presence in Jerusalem is not new. No people on Earth are as inexorably linked to any city as the Jewish people are to the city of Jerusalem. For more than three millennia, ever since King David declared it the capital of his Jewish kingdom and bought the land on which his son Solomon would build his temple, Jerusalem has been the spiritual and cultural focal point of Jewish history. Yet Jerusalem's significance to the Jew goes back even further, for Jewish tradition states that Solomon's temple was built on the very spot where Abraham was prepared to sacrifice his son Isaac and where Jacob, the third of the patriarchs, dreamt of a ladder connecting heaven and Earth.

For 2,600 years Jerusalem has not been forgotten. The devout Jew prays six times a day—thrice in his daily prayers and thrice at grace—for the city of Jerusalem. No Jewish religious ceremony is complete without mention of the Holy City. And twice a year, at the conclusion of the Passover Seder and the Day of Atonement services, all assembled repeat one of mankind's shortest and oldest prayers: "Next Year in Jerusalem."

Not only is Jerusalem central to Jewish prayer and religious practice but Jews throughout the centuries have risked their very lives to be able to live in, or at least visit, their Holy City. Conquering armies came and went—Roman, Byzantine, Arab, Crusader, Mongol, and Turk—but the Jewish community, despite depravation and persecution, remained in Jerusalem. Indeed, the first authoritative Turkish census of the city reported in 1845 that 7,120 of Jerusalem's almost 15,000 inhabitants were Jewish. In 1865 the British Counsel General reported that half of Jerusalem's 18,000 inhabitants were of the Jewish faith—and this before there was a west or new Jerusalem and in fact before the birth of the Zionist movement. By the turn of the century, the population of Jerusalem had grown to 45,600, including over 28,000 Jews. Thus, even the old city of Jerusalem had a Jewish majority a century ago.

Likewise, the city of Jerusalem has a powerful religious significance for persons of other religions. These attachments—themselves stretching back over the millennia—make Jerusalem a unique and treasured city to persons around the world.

Thus, the division of Jerusalem after the 1948 war in which Israel's Arab

neighbors determined to wipe out the fledgling Jewish State and drove out the Jewish population of the walled city at gunpoint was especially painful. The subsequent years of Jordanian desecration of holy sites and adamant refusal to permit access to sacred places under Jordanian control was a sorry period indeed. Thus it is that we celebrate the reunification of this holy city and its magnanimous administration by the Government of Israel. This is not just a moment for the people of Israel, or Jews around the world, to celebrate. Everyone who believes that the rights of persons of all faiths should be respected have good reason to celebrate 25 years of Israeli governance and to congratulate the residents of Jerusalem on the fact that their city is no longer divided by barbed wire.

It is interesting to note that in 1980 President Bush criticized the Carter administration for sending mixed signals about Jerusalem. He claimed that they undermined confidence in America's policy and purpose in the Middle East. Specifically, in a campaign speech delivered on October 9, 1980, he told the Zionist Organization of America that:

I need not detail the recent history of mixed signals delivered in the U.N. and elsewhere around the world concerning the Carter administration's policy on such issues as the PLO and the status of Jerusalem. They are only too well known. Nor need I stress that though these signals are mixed, they assume a pattern that has undermined confidence in America's policy and purpose in the Middle East.

Mr. President, I call upon the administration to embrace the principles of this resolution—to celebrate the reunification of Jerusalem and to pledge that it will never again be divided—and I invite my colleagues to join me in supporting this resolution.

I yield the floor.

Mr. PACKWOOD. Mr. President, I want to thank my colleagues for supporting Senate Concurrent Resolution 113. The citizens of Israel deserve congratulations on the 25th anniversary of Jerusalem's reunification, and they deserve assurances that we object to the idea of a redivided Jerusalem. Senate Concurrent Resolution 113 passes along this important message, and urges the President to follow the same principles when developing policy.

Supporting an undivided Jerusalem is smart, stable policy. For the past 25 years, observers of all religions have had free access to their places of worship. Arabs, Jews, and Christians overlap each other in places of worship, commerce, and rest. During this time, Jerusalem has been a stable and developing international city. It is a polyglot culture which allows its citizens and tourists from all over the world to travel throughout the city. All of this stands in contrast to the pre-1967 Jordanian administration, when barbed wire and cinderblocks restricted people's movements and Jerusalem's growth.

Stating that Jerusalem must not be redivided is also realistic policy. Despite the different views being discussed in Israel's upcoming election, there is one item all parties firmly agree on—that Jerusalem is the most important city in Israel. For thousands of years, Jerusalem has been on the lips of Jewish people as both a place and a concept. Prayers recited by Jews throughout the world state the wish "Next year in Jerusalem." Now that Jews can fulfill that dream, while also allowing worshipers of other religions to fulfill their dreams, there is no way that Israel will forget the cinderblocks and barbed wire.

The status of Jerusalem is one item that will not be on the bargaining table in any negotiations. And it should not be. When most people consider the concept of peace, they think of people with different backgrounds being brought together. Most people, including myself, do not envision peace growing out of new divisions—out of new boundaries that further separate people. Redividing Jerusalem, and nixing the need for multicultural cooperation, does not sound to me like a formula for peace. It sounds like a step backward.

I am glad my colleagues support Senate Concurrent Resolution 113 because it is a step forward. It recognizes the importance of an undivided Jerusalem to Israel, and to the overall peace process in which Israel is participating with her neighbors. It also recognizes the successes that have come from 25 years of unification. Finally, it recognizes that in the same breath that we celebrate the fall of the Berlin Wall and the Iron Curtain, we should not beckon the return of the Mandelbaum Gate.

I thank my colleagues for their support, and urge the President to consider our resolution.

AMENDMENT NO. 2041

(Purpose: To amend Senate Concurrent Resolution 113 concerning the 25th anniversary of the reunification of Jerusalem)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] for Mr. MOYNIHAN proposes an amendment numbered 2041.

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

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

The amendment is as follows:

On page 2, line 7, of the resolution insert the word "religious" between the words "the" and "rights".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2041) was agreed to.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (S. Con. Res. 113), as amended, was agreed to.

AMENDMENT NO. 2042

(Purpose: To amend the Preamble to S. Con. Res. 113)

Mr. METZENBAUM. Mr. President, I send an amendment to the preamble to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] for Mr. MOYNIHAN proposes an amendment numbered 2042.

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

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

The amendment is as follows:

On page 1 of the Preamble, in the third "Whereas" clause strike the word "majority" and insert in lieu thereof the word "community";

On page 2 of the Preamble, in the seventh "Whereas" clause beginning "Whereas this year marks the twenty-fifth year that Jerusalem has been administered as a unified city" insert the word "religious" between the words "the" and "rights";

On page 2 of the Preamble, strike the eighth and ninth "Whereas" clauses and insert in lieu thereof:

"Whereas in 1990 the United States Senate and House of Representatives overwhelmingly declared that Jerusalem, the capital of Israel, "must remain an undivided city";" "Whereas United Nations Security Council Resolutions 681 and 726 have raised understandable concern in Israel that Jerusalem might one day be redivided and access to religious sites in Jerusalem denied to Israeli citizens of all faiths and Jewish citizens of other states; and".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2042) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the preamble, as amended.

The preamble, as amended, was agreed to.

The concurrent resolution (S. Con. Res. 113), as amended, with its preamble, as amended, is as follows:

S. CON. RES. 113

Whereas for three thousand years Jerusalem has been the focal point of Jewish religious devotion;

Whereas Jerusalem is also considered a holy city by the members of other religious faiths;

Whereas the once thriving Jewish community of the historic Old City of Jerusalem was driven out by force during the 1948 Arab-Israeli War;

Whereas from 1948 to 1967 Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were

denied access to holy sites in the area controlled by Jordan;

Whereas in 1967 Jerusalem was reunited during the conflict known as the Six Day War;

Whereas since 1967 Jerusalem has been a united city administered by Israel and persons of all religious faiths have been guaranteed full access to holy sites within the city;

Whereas this year marks the twenty-fifth year that Jerusalem has been administered as a unified city in which the religious rights of all faiths have been respected and protected;

"Whereas in 1990 the United States Senate and House of Representatives overwhelmingly declared that Jerusalem, the capital of Israel, "must remain an undivided city";"

"Whereas United Nations Security Council Resolutions 681 and 726 have raised understandable concern in Israel that Jerusalem might one day be redivided and access to religious sites in Jerusalem denied to Israeli citizens of all faiths and Jewish citizens of other states; and"

Whereas such concerns inhibit and complicate the search for a lasting peace in the region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) congratulates the residents of Jerusalem and the people of Israel on the twenty-fifth anniversary of the reunification of that historic city;

(2) strongly believes that Jerusalem must remain an undivided city in which the religious rights of every ethnic and religious group are protected as they have been by Israel during the past twenty-five years; and

(3) calls upon the President and the Secretary of State to issue an unequivocal statement in support of these principles.

Mr. METZENBAUM. Mr. President, I move to reconsider the votes.

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

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

1990 ANNUAL REPORT OF THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT PM 249

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources.

To the Congress of the United States:

In accordance with the requirements of section 657 of the Department of Energy Organization Act (Public Law 95-91; 42 U.S.C. 7267), I transmit herewith the 11th Annual Report of the Department of Energy, which covers the year 1990.

GEORGE BUSH.

THE WHITE HOUSE, *June 10, 1992.*

MESSAGES FROM THE HOUSE

At 12:01 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker had signed the following enrolled bills:

H.R. 1642. An act to establish in the State of Texas the Palo Alto Battlefield National Historic Site, and for other purposes;

H.R. 1917. An act for the relief of Michael Wu; and

H.R. 2556. An act entitled the "Los Padres Condor Range and River Protection Act."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3370. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Rural Electrification Act of 1936; to the Committee on Agriculture, Nutrition and Forestry.

EC-3371. A communication from Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize supplemental appropriations for the Department of Defense for fiscal year 1992, and for other puposes; to the Committee on Armed Services.

EC-3372. A communication from Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize the transfer by lease of three naval vessels to the Coordination Council for North America; to the Committee on Armed Services.

EC-3373. A communication from the First Vice President and Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving United States exports to India; to the Committee on Banking, Housing and Urban Affairs.

EC-3374. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report of the Department of Transportation on Accomplishments Under the Airport Improvement Program; to the Committee on Commerce, Science and Transportation.

EC-3375. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3376. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3377. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3378. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3379. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3380. A communication from the Director of the Office of Civilian Radioactive Waste Management, Department of Energy, transmitting, pursuant to law, the annual report of the Department of Energy on the activities and expenditures of the Office of Civilian Radioactive Waste Management; pursuant to Public Law 97-425); referred jointly to the Committee on Energy and Natural Resources, and the Committee on Environment and Public Works.

EC-3381. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the receipt of project proposals; to the Committee on Energy and Natural Resources.

EC-3382. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report on a prospectus for Mobile, AL; to the Committee on Environment and Public Works.

EC-3383. A communication from the Assistant Secretary of Energy (Environment, Safety and Health), transmitting, pursuant to law, the annual report of the Department of Energy for calendar year 1991; to the Committee on Environment and Public Works.

EC-3384. A communication from the Commissioner of Social Security, transmitting, pursuant to law, the annual report of the Social Security Administration on all aspects of Social Security Administration programs and activities; to the Committee on Finance.

EC-3385. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, a report on the recommendations of the Secretary of Health and Human Services concerning access, utilization, and beneficiary liability for Medicare physicians' services; to the Committee on Finance.

EC-3386. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on beneficiary assistance programs to assist Medicare-eligible individuals with the receipt of services under the Medicare and Medicaid programs and other health insurance programs for fiscal year 1991; to the Committee on Finance.

EC-3387. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Patterns of Health Care Utilization in the Nonelderly Medicaid Population of Selected States"; to the Committee on Finance.

EC-3388. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to make improvements in furnishing equipment and supplies to Medicare beneficiaries; to the Committee on Finance.

EC-3389. A communication from the Assistant Adminstrator of the Agency for International Development (Legislative Affairs), transmitting, pursuant to law, a report on the 1990-1991 program of the Agency for International Development for conserving tropical forests and biological diversity; to the Committee on Foreign Relations.

EC-3390. A communication from an Agency Information Officer of the Environmental Protection Agency, transmitting, pursuant to law, the annual report of the Environmental Protection Agency under the Freedom of Information Act for calendar year 1991; to the Committee on Governmental Affairs.

EC-3391. A communication from the Secretary of Labor, transmitting, pursuant to law, a semiannual report of the Inspector General of the Department of Labor for the period October 1, 1991 through March 31, 1992; to the Committee on Governmental Affairs.

EC-3392. A communication from the Director of the Norfolk Naval Shipyard Co-operative Association, transmitting, pursuant to law, the annual report of the Norfolk Naval Shipyard Co-operative Association on Federal Pension Plans; to the Committee on Governmental Affairs.

EC-3393. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, a semiannual report of the Inspector General of the National Science Board for the period October 1, 1991, through March 31, 1992; to the Committee on Governmental Affairs.

EC-3394. A communication from the Secretary of the Interior, transmitting, pursuant to law, a semiannual report of the Inspector General of the Department of Interior for the period October 1, 1991, through March 31, 1992; to the Committee on Governmental Affairs.

EC-3395. A communication from the Director of the Federal Domestic Volunteer Agency, transmitting, pursuant to law, a semiannual report of the Inspector General of the Federal Domestic Volunteer Agency for the period October 1, 1991, through March 31, 1992; to the Committee on Governmental Affairs.

EC-3396. A communication from the Secretary of Education, transmitting, pursuant to law, a semiannual report of the Inspector General of the Department of Education for the period October 1, 1991, through March 31, 1992; to the Committee on Governmental Affairs.

EC-3397. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, a semiannual report of the Inspector General of the Equal Employment Opportunity Commission for the period October 1, 1991, through March 31, 1992; to the Committee on Governmental Affairs.

EC-3398. A communication from the Secretary of Energy, transmitting, pursuant to law, the semiannual report of the Inspector General of the Department of Energy for the period October 1, 1991, through March 31, 1992; to the Committee on Governmental Affairs.

EC-3399. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report of the Department of Health and Human Services on Indian Sanitarian Facility Deficiencies; to the Select Committee on Indian Affairs.

EC-3400. A communication from the Director of the National Legislative Commission of the American Legion, transmitting, pursuant to law, a report describing the financial condition of the American Legion as of December 31, 1991; to the Committee on the Judiciary.

EC-3401. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the annual report of the Federal Judicial Center for calendar year 1991; to the Committee on the Judiciary.

EC-3402. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the annual report of the Federal Housing Finance Board under the Freedom of Information Act for the period of January 1, 1991, through December 31, 1991; to the Committee on the Judiciary.

EC-3403. A communication from the Secretary of Education, transmitting a draft of proposed legislation to extend and amend the Rehabilitation Act of 1973, to improve rehabilitation services for individuals with disabilities, to modify certain discretionary grant programs providing essential services and resources specifically designed for individuals with disabilities, to change certain terminology, and for other purposes; to the Committee on Labor and Human Resources.

EC-3404. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Notice of Final Priority—Cooperative Demonstration Program (Correctional Education); to the Committee on Labor and Human Resources.

EC-3405. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Notice of Final Priority, Required Activities, and Selection Criteria—Cooperative Demonstration Program (School-To-Work); to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-396. A concurrent resolution adopted by the Legislature of the State of Iowa; to the Committee on Appropriations.

"SENATE CONCURRENT RESOLUTION No. 109

"Whereas, the federal Fish and Wildlife Coordination Act of 1958 (Pub. L. No. 85-624) gave the United States Army Corps of Engineers authority to study and prepare a Missouri River Bank Stabilization and Navigation Project Final Feasibility Report and Final Environmental Impact Statement (EIS) for Fish and Wildlife Mitigation which recommended that the Corps of Engineers acquire, restore, preserve, or otherwise develop certain lands and waters in the project area; and

"Whereas, the federal Water Resources Development Act of 1986 (Pub. L. No. 99-662) authorized the Missouri River Fish and Wildlife Mitigation Project at an initial federal cost of $51.9 million in the states of Iowa, Nebraska, Kansas, and Missouri; and

"Whereas, without intervention of the Missouri River Fish and Wildlife Mitigation Project, an estimated 500 thousand acres of aquatic and terrestrial habitat will be lost to the Missouri River Basin states by the year 2003; and

"Whereas, the Missouri River Fish and Wildlife Mitigation Project will restore, develop, and preserve approximately 48,100 acres of habitat or approximately ten percent of the losses that occurred due to the Missouri River Bank Stabilization and Navigation Project; and

"Whereas, the United States Congress has appropriated, at the request of the affected states, initial construction funding for the Missouri River Fish and Wildlife Mitigation Project for the federal fiscal year 1992; Now, therefore, be it

"Resolved by the Senate, the House of Representatives concurring, That the state of Iowa urges the United States Congress to continue its financial support for the Missouri River Fish and Wildlife Mitigation Project in an amount which can be effectively used by the United States Army Corps of Engineers and which will also ensure that the authorized Project will be completed in ten years or less: "Be it further

Resolved, That a copy of this Concurrent Resolution be sent to the President of the United States Senate, to the Speaker of the House of Representatives, and to members of Iowa's congressional delegation."

POM-397. A resolution adopted by the Senate of the State of Hawaii; to the Committee on Armed Services.

"S. RES. No. 37

"Whereas, on the night of 30 July 1945, the American Navy heavy cruiser USS Indianapolis was torpedoed and sunk by a Japanese submarine; and

"Whereas, only 316 of the 1,196 crew members survived the attack and subsequent five day ordeal adrift at sea, during which the rest died from battle wounds, drowning, shark attacks, exposure, or lack of food and water, making the sinking of the Indianapolis the worst sea disaster in American naval history; and

"Whereas, the ship's captain, Charles Butler McVay III, had an excellent naval combat record throughout his career that included: participation in the landings in North Africa and Iwo Jima, a Silver Star for courage under fire earned during the Solomon Islands campaign, the assault on Okinawa during which the Indianapolis suffered a damaging kamikaze attack but was skillfully returned by Captain McVay and his crew to San Francisco for repairs, and the successful conveyance by his ship of vital parts for the atomic bomb used to end the war against Japan; and

"Whereas, the USS Indianapolis was based at Pearl Harbor, Hawaii and Captain McVay's sons, Kimo Wilder McVay, Charles Butler McVay IV and their mother Kinau Wilder, are kamaaina residents of Hawaii whose ancestors were among the first missionaries to arrive in the islands.

"Whereas, Captain McVay came from a family steeped in naval tradition, had served with distinction as Chairman of the Joint Intelligence Committee of the Combined Chiefs of Staff, and would doubtless have continued a very distinguished naval career; and

"Whereas, prior to his last voyage, the Advance Headquarters of the Commander in Chief, Pacific Fleet (CINCPAC) failed to inform Captain McVay of intelligence in its possession about the activities of four Japanese submarines sighted along the route his ship would be sailing and where a Japanese submarine had previously sunk another American vessel; and

"Whereas, despite having this information in its possession, the Navy instructed Captain McVay to sail a direct route between Guam and Leyte in the Philippines, although this route brought the ship to the crossroads between the Guam-Leyte and Palau-Okinawa

routes, an area Japanese submarines would likely have heavily targeted due to the greater chance they had there of spotting American naval traffic; and

"Whereas, various U.S. Navy shore offices compounded the errors which placed the Indianapolis in jeopardy by failing to report the ship's overdue arrival, thus never launching a search party, leaving the ship's survivors adrift for days until by chance they were spotted by a routine air patrol; and

"Whereas, because the tragedy coincided with the ending of the war in the Pacific and thus threatened to detract from the Navy's role in that victory and from its desire for prominent status in the post-war military establishment, the Navy wrongfully court-martialed Captain McVay as a scapegoat for 'suffering a vessel to be hazarded through negligence', thus making him the first American captain ever brought to trial for losing his ship in combat, despite the fact that over seven hundred ships had been lost in the war, including some under questionable circumstances; and

"Whereas, Captain William Hillbert, the judge advocate at the Navy's 13 August 1945 inquiry into the matter, admitted that the trial was so rushed that they were ". . . starting the proceedings without having available all the necessary data,"; and

"Whereas, the charge against Captain McVay was entirely predicated upon his failure to order the ship to maintain a zigzag course even though standing orders stated that zigzagging was not necessary during poor visibility (reported to have been at best "patchy" that night), and even though Mochitsura Hashimoto, the Japanese submarine commander who sank the ship, testified at the Navy's inquiry that it would not have made any difference if the ship were zigzagging or not, and even though CINCPAC concluded that the rule on zigzagging would not have applied since Captain McVay's routing orders gave him discretion on the matter and took precedence over all other orders (a point never made to the court by McVay's attorney); and

"Whereas, CINCPAC disagreed with the Court's recommendations that Captain McVay receive a Letter of Reprimand and court-martial, stating that at worst Captain McVay was guilty only of an error in judgment and not gross negligence: Now, therefore, be it

"*Resolved by the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992*, That Hawaii's Congressional Delegation is requested to pursue any and all means available to exonerate Captain McVay, including but no limited to the overturning of his conviction and the passing of a Joint Congressional Resolution to expunge the court-martial from the record and express the sense of Congress that a grave injustice was visited upon Captain McVay: be it further

"*Resolved*, That the President of the United States is requested to grant a Presidential Unit Citation to the crew and survivors of the USS Indianapolis for courage displayed in the face of tremendous hardship and adversity: be it further

"*Resolved*, That certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, each member of Hawaii's congressional delegation, and to each of the presiding officers of the legislative bodies of each state of the United States of America."

POM-398. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Finance.

"H.R. No. 90

"Whereas, the lack of affordable and available housing in Hawaii has heightened demands by many households for affordable rental units in Hawaii; and

"Whereas, to exacerbate the housing situation in the State, the spiraling prices of homes and rentals, the tight rental market, and a low vacancy rate for rentals have caused grave housing concerns for those individuals and families seeking a home; and

"Whereas, the dismaying fact is that many families are unable to save for a down payment on a home and to pay for rent at the same time: in short, the dream of owning a home in Hawaii has become an impossible dream; and

"Whereas, in particular, low-income households, single parents, the handicapped, and the elderly are most vulnerable to rent increases; and

"Whereas, to help alleviate the housing pinch in Hawaii, it is essential that government help ease the cost of rentals to individuals in a state where approximately half of the households rent; and

"Whereas, in an effort to partially offset the higher tax burden facing renters in the State, the Hawaii State Legislature adopted a system of tax credits for low-income household renters beginning in 1970; and

"Whereas, a subsequent measure passed by the Hawaii State Legislature provides low-income and medium-income renters with a state income tax credit of $50 multiplied by the number of qualifying exemptions; and

"Whereas, federal legislative action to provide a tax credit for renters on the federal level would further contribute to minimizing the impact of rising real property taxes and inflationary expenses incurred by landlords, which are passed on to tenants in the form of higher rent: Now, therefore, be it

"*Resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992*, That the Congress of the United States is requested to provide a federal tax credit for renters: Be it further

"*Resolved*, That certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and Hawaii's congressional delegation."

POM-399. A resolution adopted by the House of Representatives of the State of Colorado; to the Select Committee on POW/MIA Affairs.

"HOUSE JOINT RESOLUTION 92-1017

"Whereas, there are more than 88,000 American service personnel missing in action from World War II, the Korean Conflict, and the Vietnam War, without a complete or satisfactory resolution of their status taking place in any instance; and

"Whereas, evidence has continued to mount over the years that American military personnel are being held against their will in Southeast Asia after the end of the conflict in that region, including evidence of more than 11,000 live sighting reports received by the Department of Defense since 1973, and such evidence is supported by facts such as the statements made by Laotian leaders in April, 1973, that at such time they did in fact have live American prisoners of war under their control who were never released; and

"Whereas, in October, 1990, the minority staff of the United States Senate Committee on Foreign Relations released, an 'Interim Report on the Southeast Asian POW/MIA Issue', which concluded that United States military and civilian personnel were held against their will in Southeast Asia after April, 1973, despite earlier public statements by the Department of Defense on April 12, 1973, that there was no evidence' of live prisoners of war, statements which were contrary to information then available to the United States government; and

"Whereas, the Interim Report states that congressional inquiries into the POW/MIA issue have been hampered by relevant information being concealed from congressional members or information being "misinterpreted or manipulated" in government files; and

"Whereas, although the Department of Defense has, since 1973, publicly taken the stance that there was 'no evidence' of live American prisoners of war in Southeast Asia, the Department of Defense now admits, after consideration of detailed analysis of growing evidence, that there are a number of 'discrepancies' and 'unresolved' cases; and

"Whereas, Senate Bill 2177 and House Bill 4066 would request information from certain countries concerning American military and civilian personnel missing in Southeast Asia during the Vietnam conflict and would require the heads of federal departments and agencies to disclose to Congress information concerning such military and civilian personnel; and

"Whereas, a Senate Select Committee on POW/MIA Affairs whose focus is to thoroughly investigate the POW/MIA issue has been selected: Now, therefore, be it

"*Resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein*, That the General Assembly of the State of Colorado urges the United States House of Representatives to pass House Bill 4066 and the United States Senate to pass Senate Bill 2177, to further resolve the issue concerning American service personnel held prisoner or missing in action from World War II, the Korean Conflict, the Vietnam War, and the Persian Gulf War: be it further

"*Resolved*, That copies of this resolution be sent to the President of the United States; the Secretary of State and the Secretary of Defense of the United States; the President and Secretary of the United States Senate; the chairpersons of the following standing committees in the United States Senate: Armed Services, Foreign Affairs, Government Operations, and Veterans Affairs; the Speaker and Chief Clerk of the United States House of Representatives; the chairpersons of the following standing committees in the United States House of Representatives; Armed Services, Foreign Relations, Governmental Affairs, and Veterans Affairs; all members of the congressional delegation from the State of Colorado; and the chairpersons of the Veterans Affairs Committees of the other forty-nine sovereign states of the Union."

POM-400. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Veterans' Affairs.

"JOINT RESOLUTION

"Whereas, there will be an event commemorating the 10th anniversary of the Vietnam Veterans Memorial in Washington, D.C. from November 7 to November 11, 1992; and

"Whereas, this event will present an opportunity for our nation, which was too long divided over the Vietnam War, to join together

in remembrance and reflection and to honor those who lost their lives in that conflict; and

"Whereas, the Legislature and the people of the State of Maine wish to express their support for this commemoratory event; now, therefore, be it

"*Resolved*, That We, the Members of the One Hundred and Fifteenth Legislature of the State of Maine, now assembled in the Second Regular Session, pause in our deliberations to express our support for the event recognizing the 10th anniversary of the Vietnam Veterans Memorial; and be it further

"*Resolved*, That suitable copies of this Joint Resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George H. W. Bush, President of the United States; the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States; each Member of the Maine Congressional Delegation; Jan Craig Scruggs, President of the Vietnam Veterans Memorial Fund; and Barbara Bush, Honorary Chair of the Vietnam Veterans Memorial 10th Anniversary Advisory Committee."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 2827. A bill to amend the John F. Kennedy Center Act (20 U.S.C. 76h et seq.) to provide authorization of appropriations for fiscal years 1993 through 1997 for the John F. Kennedy Center for the Performing Arts, and for other purposes (Rept. No. 102-295).

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. MITCHELL (for himself, Mr. MOYNIHAN, Mr. SIMPSON, Mr. KENNEDY, and Mr. HATFIELD):

S. 2827. A bill to amend the John F. Kennedy Center Act (20 U.S.C. 76h et seq.) to provide authorization of appropriations for fiscal years 1993 through 1997 for the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MITCHELL (for himself, Mr. COHEN, and Mr. LAUTENBERG):

S. 2828. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance or petroleum product or its derivitive was stored, released, or disposed of; to the Committee on Environment and Public Works.

By Mr. COHEN (for himself and Mr. MITCHELL):

S. 2829. A bill to require the Secretary of the Air Force to indemnify and hold harmless the recipients of the real property at Loring Air Force Base, Maine, for releases and threatened releases of hazardous substances or pollutants of contaminants resulting from Department of Defense activities at that base before the closure of that base; to the Committee on Armed Services.

By Mr. COCHRAN:

S. 2830. A bill to provide for the establishment of a Lower Mississippi River Museum and Riverfront Interpretive Site, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2831. A bill to amend the Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BOND (for himself, Mr. GLENN, Mr. COATS, Mr. GRASSLEY, Mr. DIXON, Mr. CONRAD, Mr. MCCONNELL, Mr. SIMON, Mr. PRESSLER, Mr. DURENBERGER, and Mr. JOHNSTON):

S. 2832. A bill to require that all Federal printing be performed using cost-competitive inks whose pigment vehicles are made entirely from soybean oil, and for other purposes; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself, Mr. MOYNIHAN, Mr. SIMPSON, Mr. KENNEDY, and Mr. HATFIELD):

S. 2827. A bill

amend the John F. Kennedy Center Act (20 U.S.C. 76h et seq.) to provide authorization of appropriations for fiscal years 1993 through 1997 for the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Environment and Public Works.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS REAUTHORIZATION ACT

Mr. MITCHELL. Mr. President, Washington, DC, is more than the political and governmental Capital of our Nation. As the home of the National Archives, the Smithsonian Institution, the National Gallery of Art, the Library of Congress, and the Kennedy Center for the Performing Arts, it could also be called our cultural and educational capital. Every year, millions of Americans visit Washington to learn more about their Nation and their heritage. The Federal Government has long recognized that it has a role in preserving the Nation's history, celebrating it's diverse citizenry, and educating the public through support of national museums and cultural centers. This is a critically important responsibility of our Government.

These national institutions reach more than just the millions of Americans who personally visit Washington every year. Publications, seminars, and similar outreach programs expand the influence of our Nation's museums and cultural centers beyond their geographic locations.

One of the more innovative outreach programs has been developed by the Kennedy Center. The Kennedy Center, as the National Center for the Performing Arts, has repeatedly shown leadership in expanding the role of performing arts and arts education in communities across the Nation. In an effort to expand its influence beyond the city of Washington, in 1991 it embarked on an effort to bring community arts centers and schools together from around the country to learn, share, and expand the influence of the arts. The Partners in Education Program at the JFK Center allows teams from community arts centers and schools to travel to the District of Columbia to learn from experts and from each other methods to successfully incorporate the arts into everday curriculums.

This program has just completed its second successful year. In just 2 years, 27 teams from 24 different States have completed training sessions at the Kennedy Center, and all of the community arts centers which participated in the 1991 training session have since developed or expanded their programs for local teachers.

This type of program will expand accessibility of the arts to populations which have traditionally been underserved such as rural or inner-city communities. I am pleased to note that both the 1991 and 1992 programs included participants from Maine. Maine students do not always get the opportunity to travel to Washington to visit the Kennedy Center, but through the Kennedy Center's Partners in Education Program, students in Maine will now find that the arts are more accessible and relevant to their studies.

The Kennedy Center has done an admirable job in bringing the arts to schools, but more can be done. That is why I am joining with Senators HATFIELD, SIMPSON, KENNEDY, and MOYNIHAN today in supporting legislation to expand the ability of the Kennedy Center to fulfill its role as the National Arts and Education Center. Our legislation will expand the education and outreach programs of the Kennedy Center as well as provide for a more efficient and effective process of making necessary capital repairs to the physical structure.

The John F. Kennedy Center requires adequate Federal support if it is to fulfill its mandated mission as the National Performing Arts Center. I am encouraged by the bipartisan support and progress that has been made on this measure, and I look forward to working with my colleagues in the Senate and with the administration to see this measure become law.

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. 2827

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

SECTION 1. BUREAU, BOARD OF TRUSTEES, AND ADVISORY COMMITTEE.

Section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is amended—

(1) by redesigning subsections (a), (b), and (c) as subsections (b), (c) and (d);

(2) by inserting before subsection (b) (as redesignated in paragraph (i)) the following new subsection:

"(a) The Congress finds that—

"(1) the late John Fitzgerald Kennedy served with distinction as President of the United States, and as a Member of the Senate and the House of Representatives;

"(2) by the untimely death of John Fitzgerald Kennedy this Nation and the world have suffered a great loss;

"(3) the late John Fitzgerald Kennedy was particularly devoted to education and cultural understanding and the advancement of the performing arts;

"(4) it is fitting and proper that a living institution of the performing arts, designated as the National Center for the Performing Arts, named in the memory and honor of this great leader, shall serve as the sole national monument to his memory within the city of Washington and its environs;

"(5) such a living memorial serves all of the people of the United States by preserving, fostering, and transmitting the performing arts traditions of the people of this Nation and other countries by producing and presenting music, opera, theater, dance and other performing arts; and

"(6) such a living memorial should be housed in the John F. Kennedy Center for the Performing Arts, located in the District of Columbia.";

(3) in subsection (b) (as redesignated in paragraph (i))—

(A) in the first sentence, by inserting "as the National Center for the Performing Arts and as a living memorial to John Fitzgerald Kennedy," after "thereof"; and

(B) in the second sentence—

(i) by striking "Secretary of Health and Human Services' and inserting "Secretary of State"; and

(ii) by striking "Chairman of the District of Columbia Recreation Board" and inserting "Superintendent of Schools of the District of Columbia';

(4) by amending subsection (c) (as redesignated in paragraph (1)) to read as follows:

"(c) The general trustees shall be appointed by the President of the United States and each such trustee shall hold office as a member of the Board for a term of six years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term;

"(2) a member shall continue to serve until such member's successor has been appointed; and

"(3) the term of office of a member appointed prior to the date of enactment of this subsection shall expire as designated at the time of appointment."; and

(5) in the last sentence of subsection (d) (as redesignated in paragraph (1)), by striking "him" and inserting "the member".

(6) EFFECTIVE DATE FOR CERTAIN APPOINTMENTS.—The appointments made pursuant to the amendments made by clauses (i) and (ii) of subparagraph (3)(B) of section 1 of this Act shall not commence until the expiration of the terms of the Secretary of Health and Human Services and the Chairman of the District of Columbia Recreation Board, respectively, serving as Trustees of the John F. Kennedy Center for the Performing Arts on the date of enactment of this Act.

SEC. 2. PRESENTATIONS, PROGRAMS, FACILITIES FOR ACTIVITIES, AND MEMORIAL IN HONOR OF THE LATE PRESIDENT; RESTRICTION ON ADDITIONAL MEMORIALS.

Subsection (a) of section 4 of the John F. Kennedy Center Act (20 U.S.C. 76j) is amended to read as follows:

"(a)(1) The Board shall—

"(A) present classical and contemporary music, opera, drama, dance and other performing arts from the United States and other countries;

"(B) promote and maintain the Center as the National Center for the Performing Arts by—

"(i) developing and maintaining, in consultation with the Secretary of Education and the heads of other Federal agencies involved in performing arts education, a leadership role in national performing arts education policy and programs, including developing and presenting original and innovative performing arts and educational programs for children, youth, families, adults and educators designed specifically to foster an appreciation and understanding of the performing arts;

"(ii) develop and maintain, in consultation with the Secretary of Education and the heads of other Federal agencies involved in performing arts education, a comprehensive and broad program for national and community outreach, including establishing model programs for adaptation by other presenting and educational institutions; and

"(iii) conducting joint intiatives with the national education and outreach programs of the Very Special Arts, an affiliate of the John F. Kennedy Center for the Performing Arts which has an established program for the identification, development and implementation of model programs and projects in the arts for disabled individuals;

"(C) in consultation with the Secretary of Education and the heads of other Federal agencies involved in performing arts education, strive to ensure that the John F. Kennedy Center for the Performing Arts education and outreach programs and policies meet the highest level of excellence and reflect the cultural diversity of the Nation;

"(D) provide facilities for other civic activities at the John F. Kennedy Center for the performing Arts;

"(E) provide within the John F. Kennedy Center for the Performing Arts a suitable memorial in honor of the late President; and

"(F) develop a comprehensive building needs plan for the existing features of the John F. Kennedy Center for the Performing Arts. This building needs plan shall not include expansion of the building or construction of a new building.

"(2) (A) The Board, in accordance with applicable law, may enter into contracts or other arrangements with, and make payments to, public agencies or private organizations or persons in order to carry out the Board's functions under this Act.

"(B) Notwithstanding any other provisions of law, a contract or other arrangement described in subparagraph (A) that is entered into for an environmental system, a protection system or a repair to or restoration of the John F. Kennedy Center for the Performing Arts may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.".

SEC. 3. TRUST FUNDS, OFFICERS AND EMPLOYEES, REVIEW OF BOARD ACTIONS.

Section 5 of the John F. Kennedy Center Act (20 U.S.C. 76k) is amended—

(1) in the first sentence of subsection (a), by striking "Smithsonian Institution" and inserting the "John F. Kennedy Center for the Performing Arts, as a bureau of the Smithsonian Institution,";

(2) in subsection (b)—

(A) in the first sentence, by striking "director, an assistant director, and a secretary of the John F. Kennedy Center for the Performing Arts and of" and inserting "a Chairperson of the John F. Kennedy Center for the Performing Arts (hereafter in this Act referred to as the 'Chairperson'), who shall serve as the chief executive officer of such Center, and a secretary of such Center. The Chairperson shall appoint"; and

(B) in the second sentence, by striking "director, assistant director," and inserting "Chairperson"; and (3) by adding at the end the following new subsection:

"(d) The Secretary of the Interior and the Board shall enter into a cooperative agreement regarding major capital projects for the Center. Such cooperative agreement shall—

"(1) provide that the Board or the Board's designated representative shall plan, design, and construct all major capital projects at the John F. Kennedy Center for the Performing Arts; and

"(2) contain assurances that—

"(A) all planning, design, and construction of major capital projects shall be approved by the Secretary of the Interior or such Secretary's designee prior to commencement of such activities;

"(B) the Secretary of the Interior shall transfer to the Board or other entities from amounts available to such Secretary for the John F. Kennedy Center for the Performing Arts the funds necessary to carry out the activities described in subparagraph (A) in accordance with the terms of such cooperative agreement; and

"(C) the Board shall report quarterly to the Secretary of the Interior or such Secretary's designee regarding the progress of all planning, design, and construction performed pursuant to such cooperative agreement.".

SEC. 4. OFFICIAL SEAL, BOARD VACANCIES AND QUORUM, TRUSTEE POWERS AND OBLIGATIONS, REPORTS, SUPPORT SERVICES, AND REVIEW AND AUDIT.

Section 6 of the John F. Kennedy Center Act (20 U.S.C. 76l) is amended—

(1) in subsection (c)—

(A) by striking "its" and inserting "the Board's"; and

(B) by striking "it" and inserting "the Board";

(2) in subsection (e)—

(A) by striking the title and inserting "MAINTENANCE, REPAIR, AND SECURITY SERVICES.—";

(B) by striking "alteration of the building" and all that follows in paragraph (1) and inserting "security services.";

(C) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(D) by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE.—The Board, with the concurrence of the Secretary of the Interior or such Secretary's designee, shall designate the services to be performed pursuant to paragraph (1) in order to ensure that such services will meet the requirements for high quality operations, except that in no event shall the Board require the expenditure of funds in excess of those appropriated pursuant to the authority of section 13(b).''; and

(3) in paragraph (3) (as redesignated in subparagraph (2)(C) of section 4 of this Act), by adding at the end the following new sentence: "Such agreement shall be reviewed and updated, if necessary, every five years.".

SEC. 5. TECHNICAL AMENDMENT.

Section 10 of the John F. Kennedy Center Act (20 U.S.C. 76p) is amended—

(1) by striking "he" and inserting "the Secretary"; and

(2) by striking "his" and inserting "the Secretary's".

SEC. 6. DEFINITIONS AND AUTHORIZATION OF APPROPRIATIONS.

The John F. Kennedy Center Act (20 U.S.C. 76h et seq.) is amended by inserting at the end the following new sections (with section 12 being codified at 20 U.S.C. 76r, and section 13 being codified at 20 U.S.C. 76s):

"SEC. 12. DEFINITIONS.

"For the purpose of this Act—

"(1) the term 'capital projects' means capital repairs, replacements, improvements, rehabilitations, alterations, and modifications to the existing features of the John F. Kennedy Center for the Performing Arts building and all existing features of interior and exterior Center spaces, including the existing theaters, garage, roadways, and walkways;

"(2) the term 'existing' means existing on the date of enactment of the John F. Kennedy Center Act Amendments of 1992; and

"(3) the term 'maintenance, repair, and security services' means all services and equipment necessary or desirable to maintain and operate the existing features of the John F. Kennedy Center for the Performing Arts building and all existing interior and exterior building spaces, including the existing theaters, garage, roadways, and walkways, in a manner consistent with the requirements for high quality operations as determined by the concurrence of the Board and the Secretary of the Interior or the Secretary's designee and in accordance with the cooperative agreement described in section 6(e)(3) (as redesignated in subparagraph (2)(C) of section 4 of the John F. Kennedy Center Act Amendments of 1992).

"SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

"(a) CAPITAL PROJECTS.—There are authorized to be appropriated to the Secretary of the Interior $15,000,000 for fiscal year 1993 and each succeeding fiscal year through fiscal year 1997 to carry out subparagraph (F) of section 4(a)(1), subparagraph (A) of section 4(a)(2), and subsection (d) of section 5.

"(b) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Secretary of the Interior $12,000,000 for fiscal year 1993 and each succeeding fiscal year through fiscal year 1997 to carry out paragraph (1) of section 6(e).

"(c) EDUCATION AND OUTREACH PROGRAMS.—There are authorized to be appropriated to the Secretary of Education $4,000,000 for each of the fiscal years 1993 and 1994, and $5,000,000 for each of the fiscal years 1995, 1996, and 1997, to be granted to the Board to carry out subparagraphs (B) and (C) of section 4(a)(1).

"(d) SPECIAL RULE.—No funds appropriated pursuant to the authority of subsection (a) or (b) for capital projects or for maintenance, repair, and security services for existing theaters shall be used for performing arts related production expenses.".

SEC. 7.

This Act may be cited as the "John F. Kennedy Center Act Amendments of 1992".

Mr. HATFIELD. Mr. President, I rise today in support of legislation to reauthorize the Kennedy Center Act. This legislation authorizes funding levels for the Kennedy Center for the next 5 years and attempts to redefine the roles of the Kennedy Center and the National Park Service relating to the operation and maintenance of the Kennedy Center complex. I am confident this new arrangement will provide for more efficient operation of the Kennedy Center, while at the same time retaining congressional and executive branch oversight of funds appropriated to the center.

The John F. Kennedy Center for the Performing Arts is one of our Nation's most renowned and the only nationally oriented performing arts center. As a living memorial to the late President John F. Kennedy, this institution has consistently, and especially of late, brought the best performing artists and productions in the world to our Nation's Capital. In addition, the Kennedy Center has, and will continue to perform major education and outreach services to the youth of America.

Senator MITCHELL, Senator KENNEDY, Senator SIMPSON, Senator MOYNIHAN, the Kennedy Center staff, the Office of Management and Budget, and I have worked for the last 4 months to reach an agreement on this legislation. I believe concessions have been made by both sides and the legislation now being introduced reflects a good-faith compromise by all parties involved.

I look forward to passing this most important piece of legislation and to continuing to further the tremendous performing arts and arts education programs the Kennedy Center provides to the culture and heritage of our Nation and the world.

By Mr. MITCHELL (for himself, Mr. COHEN, and Mr. LAUTENBERG):

S. 2828. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance or petroleum product or its derivative was stored, released, or disposed of; to the Committee on Environment and Public Works.

COMMUNITY ENVIRONMENTAL RESPONSE FACILITIES ACT

Mr. MITCHELL. Mr. President, earlier this year, I appointed a Senate Democratic Task Force on Defense Transition issues, chaired by Senator PRYOR of Arkansas. The task force issued its report on May 21, well in advance of a June 1 deadline that I had assigned.

The task force recommendations provide an important agenda for the Senate, and already have been outlined in the CONGRESSIONAL RECORD in statements by Senator PRYOR and others. I am grateful to Senator PRYOR and other members of the task force for their leadership in this area.

Senator DOLE also has appointed a Republican Senate Task Force on Defense Transition issues, chaired by Senator RUDMAN, which I understand is preparing its own set of recommendations. Following announcement of the Democratic program, the administration also announced its own proposals for defense transition policy. As the legislative session continues, I hope we can all come together in support of a program that will truly meet the needs of those Americans who are faced with economic challenges as a result of changes in national defense priorities.

Our world is rapidly changing.

Changes in national defense needs require a reordering of national priorities.

These changes are inevitable. They are in our national interest. At the same time, the Federal Government bears a responsibility to communities and workers affected by the economic transitions flowing from these changes—just as our Nation traditionally has recognized its special obligation to military veterans who have given much in service to their country over the years.

The Federal Government must make defense transition policy a priority for the 1990's. What the American people do not need are false promises—or the raising of expectations where commitment is lacking.

In December 1991, President Bush visited a military base scheduled for closure in Beeville, TX. He cited programs and funds for defense transition assistance enacted by Congress in 1990. The President declared: "We've got to rebuild. And Washington can and will help * * * That money is going to support efforts to find development right here in Beeville. That investment can provide huge rewards. The Department of Commerce's EDA, the Economic Development Agency, has $50 million in funding to assist communities across the country with base closing."

What the President did not mention was that throughout 1991, as he spoke, the administration sat on the funds Congress provided. In fact, EDA did not have the $50 million at the time the President spoke, because the Department of Defense did not transfer the funds to the Department of Commerce until early this year.

Also, the President did not say that in his budget for the coming fiscal year, submitted just a few weeks after his speech in Beeville, he proposed to eliminate the EDA, to terminate funding for the program, even though it was the program which the President cited as one of the keystones for assistance to communities affected by base closures. In contrast, the Democratic task force has recommended expansion of EDA's defense transition efforts.

Genuine leadership and commitment are essential to meeting the challenge of defense transition.

In too many instances, the administration's commitment has been too lit-

tle and too late. In some areas, there is a real question whether a commitment even exists.

Even as Senators today are discussing defense transition policy here in the Senate Chamber, community leaders in northern Maine have been meeting to address issues surrounding the closure of Loring Air Force Base, which is scheduled for 1994.

The Loring Readjustment Committee [LRC] has been organized, and soon will be initiating a study of potential reuse alternatives. But the Loring AFB communities in northern Maine will depend on Federal assistance if their efforts are to be successful.

Loring AFB represents 20 percent of northern Maine economy. Within 3 years of closure, the Maine State Planning Office has projected that Maine's rural Aroostook County will lose 8,500 jobs; $152 million in annual income; $4.6 million in local government revenue; and approximately 15,000 residents. Compounding the difficult challenge faced by northern Maine is the fact Loring AFB is listed as a national Superfund hazardous waste site.

If economic redevelopment strategies for closed bases are to stand any chance at all, complete and timely environmental cleanup is essential. In the case of the Air Force, however, cleanup has not been a priority.

In contrast to the Army and Navy, the Air Force has declined to spend funds approved by Congress in 1991 for the cleanup of bases now scheduled for closure.

In the case of Loring AFB in Maine, the Air Force's lack of commitment directly threatens community efforts. Delay in cleanup may prevent transfer of the base to civilian use upon its closure in 1994.

The Air Force attitude is indicative of a failure of leadership on these issues. It represents a policy of too little, too late, and risks a callous indifference to communities which long have supported defense missions.

The Air Force attitude is, frankly, unacceptable.

Earlier this week, I joined the other members of the Maine congressional delegation—Senator COHEN, Representative SNOWE, and Representative ANDREWS—in writing to the Secretary of Defense, to denounce the Air Force's resistance on funding the environmental cleanup of closed bases. In the strongest possible terms, we have asked the Secretary of Defense to resolve the funding dilemma, and to make environmental cleanup funds available immediately.

Mr. President, I ask unanimous consent that a copy of the Maine congressional delegate's letter be printed in the CONGRESSIONAL RECORD at the end of my remarks.

I also am joining Senator COHEN today in introducing legislation aimed at addressing two other environmental concerns associated with military base closures.

The first bill, introduced by me and cosponsored by Senator COHEN, would provide appropriate standards for the parcelization of closed bases. It will allow uncontaminated pieces of property to be transferred while cleanup continues at contaminated sites. Parcelization can speed economic reuse without compromising cleanup standards.

In the case of Loring AFB, out of a total of about 13,000 acres, 27 specific sites have been identified as contaminated. The cleanup of some sites may take longer than others. The legislation will maximize the opportunities for rapid, economic redevelopment, while preserving environmental cleanup standards.

The second bill, which will be introduced by Senator COHEN and cosponsored by me, provides for indemnification by the Federal Government of third parties who acquire real property at Loring AFB upon its closure. Indemnification would occur only where environmental damage is the result of actions by the military. There already is a precedent for such indemnification by the Air Force, through legislation that applies only to Pease AFB in New Hampshire. Today's legislation would apply the principle to Loring AFB.

Along with the task force recommendations I hope the Senate will act on these measures expeditiously. I look forward to a coming together within the Senate for such legislation on a bipartisan basis to support from Democratic and Republican Senators.

Communities like those in northern Maine deserve no less, whether economic or environmental. The challenges of defense transition must be addressed. They deserve leadership and commitment.

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

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

S. 2828

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 "Community Environmental Response Facilities Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The closure of certain Federal facilities is having adverse effects on the economies of local communities by eliminating jobs associated with such facilities, and delay in remediation of environmental contamination of real property at such facilities is preventing transfer and private development of such property.

(2) Each department, agency, or instrumentality of the United States, in cooperation with local communities, should expeditiously identify real property that offers the greatest opportunity for reuse and redevelopment on each facility under the jurisdiction of the department, agency or instrumentality where operations are terminating.

(3) Remedial actions, including remedial investigations and feasibility studies and corrective actions, at such Federal facilities should be expedited in a manner to facilitate environmental protection and the sale or transfer of such excess real property for the purpose of mitigating adverse economic effects on the surrounding community.

(4) Each department, agency, or instrumentality of the United States, in accordance with applicable law, should make available without delay such excess real property.

(5) In the case of any real property owned by the United States and transferred to another person, the United States Government should remain responsible for conducting any remedial action or corrective action necessary to protect human health and the environment with respect to any hazardous substance or petroleum product or its derivatives, including aviation fuel and motor oil, that was present on such real property at the time of transfer.

SEC. 3. REQUIREMENT FOR IDENTIFICATION OF LAND ON WHICH NO HAZARDOUS SUBSTANCES OR PETROLEUM PRODUCTS OR THEIR DERIVATIVES WERE STORED, RELEASED, OR DISPOSED OF.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) is amended by adding at the end the following new paragraph:

"(4) IDENTIFICATION OF UNCONTAMINATED PROPERTY.—(A) In the case of real property owned by the United States and on which the United States plans to terminate Federal Government operations, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall identify the real property on which neither hazardous substances nor petroleum products or their derivatives were stored for one year or more, known to have been released, or disposed of. Such identification shall be based on an investigation of the real property to determine or discover the presence or likely presence of a release or threatened release of any hazardous substance or any petroleum product and its derivative, including aviation fuel and motor oil, on the real property. The identification shall consist, at a minimum, of a review of each of the following sources of information concerning the current and previous uses of the real property:

"(i) A detailed search of Federal Government records pertaining to the property.

"(ii) Recorded chain of title documents regarding the real property.

"(iii) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies.

"(iv) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property.

"(v) A physical inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property.

"(vi) Reasonably obtainable Federal, State, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, and which is likely to cause or contribute to a release or threatened release of any hazardous sub-

stance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property.

"(vii) Interviews with current or former employees involved in operations on the real property.

Such identification shall also be based on sampling, if appropriate under the circumstances. The results of the identification shall be provided immediately to the Administrator and State and local government officials and made available to the public.

"(B) The identification required under subparagraph (A) is not complete until concurrence in the results of the identification is obtained from the Administrator and from the appropriate State official.

"(C) The identification required under subparagraph (A) shall be made at least 6 months before the termination of operations on the real property. The concurrence from an appropriate State official required under subparagraph (B) is deemed to be obtained if, within 90 days after receiving a request for the concurrence, the State official has not acted (by either concurring or declining to concur) on the request for concurrence.

(D) In the case of the sale or other transfer of any parcel of real property identified under subparagraph (A), the deed entered into for the sale or transfer of such property by the United States to any other person or entity shall contain—

"(i) a covenant warranting that any response action or corrective action found to be necessary after the date of such sale or transfer shall be conducted by the United States; and

"(ii) a clause granting the United States access to the property in any case in which a response action or corrective action is found to be necessary after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining property.

"(E) Nothing in this paragraph shall affect, preclude, or otherwise impair the termination of Federal Government operations on real property owned by the United States.".

SEC. 4. CLARIFICATION OF COVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) CLARIFICATION.—Paragraph (3) of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended by adding after the last sentence of such paragraph the following: "For purposes of subparagraph (B)(i), all remedial action described in such subparagraph has been taken if the construction and installation of an approved remedial design has been completed, and the Administrator has determined that the remedy is operating properly and successfully. The carrying out of long-term pumping and treating, or operation and maintenance, after the Administrator has determined the remedy is operating properly and successfully, does not preclude the transfer of the property.".

(b) ACCESS TO PROPERTY.—Paragraph (3) of such section is further amended—

(1) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof "and;"; and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States access to the property in any case in which remedial action is found to be necessary after the date of such transfer.".

SEC. 5. REQUIREMENT TO NOTIFY STATES OF CERTAIN LEASES.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), as amended by section 2, is further amended by adding at the end the following new paragraph:

"(5) NOTIFICATION OF STATES REGARDING CERTAIN LEASES.—In the case of real property owned by the United States, on which any hazardous substance or any petroleum product or its derivatives (including aviation fuel and motor oil) was stored for one year or more, known to have been released, or disposed of, and on which the United States plans to terminate Federal Government operations, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall notify the State in which the property is located of any lease entered into by the United States that will encumber the property beyond the date of termination of operations on the property. Such notification shall be made to the State at least 90 days before entering into the lease and shall include the length of the lease, the name of the person to whom the property is leased, and a description of the uses that will be allowed under the lease of the property and buildings and other structures on the property.".

U.S. SENATE,
Washington, DC, June 4, 1992.

Hon. DICK CHENEY,
Secretary of Defense, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: We are writing to express our deep dissatisfaction over the lack of funding for environmental cleanup at Air Force installations included in the Base Realignment and Closure (BRAC) Account, Part II. We urge you to take whatever action is necessary to make environmental cleanup funds available to these facilities immediately.

While we understand the need for and support additional funding for environmental cleanup at Defense Department installations, we are also fully aware that a shift in funds between programs can occur in FY 1992, thus providing funds necessary to conduct environmental cleanup activities that are essential to re-use.

We want to bring to your attention testimony presented by the Navy and the Army at a Senate Armed Services Committee hearing on May 12, 1992, in which those services stated that they had transferred approximately $8 million and $10 million, respectively, from other accounts to the base closure cleanup account for FY 1992. When asked why the Air Force did not act similarly, Deputy Assistant Secretary of the Air Force for Environment, Safety and Occupational Health, Gary Vest, responded that the Air Force General Counsel informed him that he could not spend any more Defense Environmental Restoration Account (DERA) funds after December 5, 1991. However, DERA funds are not at issue here. The question is why the Air Force chose not to use funds from other programs, as the other services did, when it realized that no funding would be available for environmental cleanup under BRAC II in FY 1992. We would appreciate an answer to this question.

We have been informed through correspondence and meetings with various Air Force officials that other activities such as realignment, construction and base improvements are a higher priority than environmental cleanup at bases scheduled to be closed. We take strong exception to that decision.

For communities devastated by the announced closing of a defense installation, all possibilities for re-use must be explored. If that installation is also a hazardous waste site, as Loring Air Force Base is, re-use possibilities are likely to be more limited, according to Defense Department testimony before the Base Closure Commission. We believe that environmental cleanup should be the highest priority, and expect that this would be the Defense Department's service-wide policy.

We encourage you in the strongest terms possible to address this funding dilemma immediately, as the availability of cleanup funds in the next few weeks could mean several years' worth of difference in the cleanup schedule.

Thank you for your attention to this matter.

Sincerely,

GEORGE J. MITCHELL,
U.S. Senator.
WILLIAM S. COHEN,
U.S. Senator.
THOMAS H. ANDREWS,
Member of Congress.
OLYMPIA J. SNOWE,
Member of Congress.

Mr. LAUTENBERG. Mr. President, today I join Senator MITCHELL in introducing this important legislation.

This bill, in an environmentally sound way, responds to the adverse economic effects base closures can have on local communities. This is a concern facing citizens across the country and in New Jersey, as the pending changes at Fort Dix and the Philadelphia Naval Shipyard underscore.

The goal of the bill is to expedite the process for identifying and distinguishing between contaminated and uncontaminated portions of bases to be closed. This will in turn expedite the cleanup of the contaminated portions of such bases, as well as encourage the reuse and redevelopment of the uncontaminated properties. This will result in faster, more effective cleanups and less economic disruption for affected communities. And the bill achieves these goals without reducing in any way the liability and responsibility the United States has for cleanups of these Federal properties.

Specifically, the bill has three major components. First, it would require the Federal Government to identify at all facilities that are going to be closed the uncontaminated parts of such property. Such identification requires State concurrence.

Second, the bill would clarify a transfer condition currently in the law. Currently Superfund requires that Federal facility contaminated or potentially contaminated land cannot be transferred unless it covenants in the deed that all remedial action necessary has been taken. The bill would clarify that this condition is met when construction and installation of an approved cleanup design have been completed, and EPA has determined that cleanup mechanisms are operating properly. So even if long-term pumping and treating is necessary, or even if the site is still on the national priorities

list, the property can be transferred. This is in accord with EPA's policy.

Third, in the case of potentially contaminated property at bases about to be closed, the legislation requires the United States to notify the State prior to entering into any lease for the property that will run past the date of base closure.

Mr. President, I look forward to working in the Committee on Environment and Public Works with the distinguished majority leader on the bill. He has been a leader on the environmental questions affecting Federal facilities for many years. The Committee process will afford us with the opportunity to work together to consider the legislation fully, and make any necessary modifications.

By Mr. COHEN (for himself and Mr. MITCHELL):

S. 2829. A bill to require the Secretary of the Air Force to indemnify and hold harmless the recipients of the real property at Loring Air Force Base, ME for releases and threatened releases of hazardous substances or pollutants of contaminants resulting from Department of Defense activities at that base before the closure of that base; to the Committee on Armed Services.

INDEMNIFICATION AND HOLD HARMLESS REQUIREMENT AT LORING AIR FORCE BASE, ME

Mr. COHEN. Mr. President, I am pleased to join my colleague from Maine in introducing the two bills that were just referred to. We believe they will improve the prospects for the reuse of Loring Air Force Base in northern Maine. As Senator MITCHELL indicated, northern Maine was devastated last year when the Air Force recommended, and the Base Closure Commission agreed, to close Loring Air Force Base.

We share the belief, the strong conviction, that the Air Force made a serious mistake. They did not provide the kind of forthright and accurate information that was necessary for the Base Closure Commission to reach an appropriate decision. That decision is now being challenged in court. Nonetheless, the people of Aroostook County are very resilient and resourceful and they are exploring every possible option for reuse as they proceed along the lines of litigation to reverse the Air Force decision and that of the Base Closure Commission.

That task of exploring the reuse of Loring Air Force base is compounded, as the Senator from Maine has pointed out, by the fact that it happens to be a Superfund hazardous waste site. It is going to make it that much more difficult to develop a plan for its potential reuse.

The two measures that we are introducing this afternoon will hopefully expedite the process to make it easier for businesses to locate in northern Maine. The two measures, as the majority leader pointed out, would alleviate the responsibility on the part of the successor to or new owner of that property for the cleanup that is required under our hazardous waste laws. It may take as long as 20 years to clean up that waste. And so we want to at least relieve the new owner from responsibility or liability for the cleanup.

We would require the Secretary of the Air Force to indemnify all successors of property at Loring from liability for contamination caused by the Air Force. My understanding is the Air Force has no objection to this legislation, nor does the EPA. And, as the majority leader has pointed out, we also allow for a clarification of the law and the regulations pertaining to the transfer of so-called clean portions of a hazardous waste site to compartmentalize or parcelize them as the majority leader has indicated.

Mr. President, I am pleased to join my colleague from Maine, Senator MITCHELL, in introducing two bills that I believe will improve the prospects for the reuse of Loring Air Force Base in northern Maine.

Last year, the Air Force announced its recommendation to close Loring AFB. Despite questions about the process used by the Air Force in making its recommendation, the Base Closure Commission concurred. This was a devastating blow to all of Maine, but especially to the people of Aroostook County where Loring is located.

While they continue to be shocked by this decision, the affected communities have formed a committee dedicated to exploring as many reuse options as possible. This will be a very challenging job, given Loring's geographic location.

Because Loring is a Superfund hazardous waste site, however, it is clear that that search for a new use will be an even more difficult task.

The prospects of a new owner being named responsible for the hazardous waste caused by Air Force activities at Loring will no doubt deter many businesses or private groups from considering opportunities there. In addition, the lengthy cleanup schedule—possibly 20 years in Loring's case—leaves open the possibility that reuse might never take place unless we make changes in current law governing federally owned Superfund sites.

Today, I am joining with Senator MITCHELL to introduce legislation that we hope will eliminate these uncertainties. The first bill directs the Secretary of the Air Force to indemnify all successors to property at Loring from liability for hazardous waste created by the Air Force. Similar language is already in place for Pease Air Force Base in New Hampshire, and I believe Loring deserves the same treatment.

The second bill would clarify the section of Superfund law regarding the transfer of clean portions of a federally owned installation that has been designated a Superfund site. It would set up standards and procedures by which clean Federal property that is part of a federally owned Superfund site can be transferred to the private sector.

I hope that these two bills together will help the Loring Readjustment Committee take a step closer to the successful reuse of Loring. It is my understanding that neither the Air Force nor the Environmental Protection Agency opposes language like that included in these bills, and I hope the relevant committees in the Senate will review them as soon as possible.

I cannot underestimate for my colleagues the economic devastation caused by the closure of Loring Air Force Base. It is essential that we take all reasonable steps to ensure that the reuse of the base, or portions of it, can occur without unnecessary constraints.

Despite the severe blow dealt them by the decision to close Loring, the people of Aroostook County are attempting to convert adversity into economic opportunity. I intend to do whatever I can to help them, and I hope these bills will make their job a little easier.

I want to remind my colleagues that the economy of northern Maine has been devastated by this decision of the Base Closure Commission and I hope that we take action very expeditiously to move these two pieces of legislation as quickly as possible in order to help the communities near Loring.

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

S. 2829

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

SECTION 1. ENVIRONMENTAL LIABILITY, LORING AIR FORCE BASE, MAINE.

(a) INDEMNIFICATION AND HOLD HARMLESS REQUIREMENT.—Except as provided in subsection (b), the Secretary of the Air Force shall hold harmless, defend, and indemnify in full a party referred to in subsection (c) from and against all suits, claims, demands, or actions, liabilities, judgments, costs, and attorney's fees arising out of, or in any manner predicated upon, any release or threatened release of a hazardous substance or a pollutant or contaminant resulting from any Department of Defense activity at Loring Air Force Base, Maine.

(b) EXCEPTION.—A party shall not be entitled to the benefits or protections of subsection (a) in the case of any release or threatened release referred to in such subsection to the extent that such party caused or contributed to such release or threatened release.

(c) APPLICABILITY.—This section applies to the following parties:

(1) The State of Maine.

(2) A political subdivision of that State.

(3) An assignee, lessee, transferee, or successor to Loring Air Force Base or any part of that base.

(5) A lender of any assignee, lessee, transferee, or successor to Loring Air Force Base or any part of that base.

(d) DEFINITIONS.—In this section:

(1) The terms "facility", "hazardous substance", "pollutant or contaminant", "re-

lease", and "response" have the meanings given such terms in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (42 U.S.C. 9601).

(2) The terms "State of Maine" and "State" include a lender, officer, agent, employee, successor, assignee, transferee, and lessee of the State of Maine.

(3) The term "political subdivision" includes a lender, officer, agent, employee, successor, assignee, transferee, and lessee of the political subdivision.

(4) The term "lender" means a person who holds indicia of ownership of any property of facility located at Loring Air Force Base, Maine primarily to protect the person's security interest in such property or facility and who does not participate in the management of that property or facility.

By Mr. COCHRAN:

S. 2830. A bill to provide for the establishment of a Lower Mississippi River Museum and Riverfront Interpretive Site, and for other purposes; to the Committee on Environment and Public Works.

LOWER MISSISSIPPI RIVER MUSEUM AND RIVERFRONT INTERPRETIVE SITE ACT OF 1992

Mr. COCHRAN. Mr. President, I rise today to introduce the Lower Mississippi River Museum and Riverfront Interpretive Site Act of 1992. The purpose of my bill is to establish an interpretative center and museum in Vicksburg, MS, along the riverfront near the Mississippi River bridge, to promote an understanding of the lower Mississippi River and to interpret the U.S. Army Corps of Engineers' role in managing this national resource.

The city of Vicksburg is home to the Mississippi River Commission and the Vicksburg District of the U.S. Army Corps of Engineers. In 1929, the Army Corps of Engineers Waterways Experiment Station was established in Vicksburg to test flood control plans for the Mississippi River.

The Waterways Experiment Station is the center for the expertise for the United States in coastal engineering, concrete technology, and the environmental effects of water resource projects. This facility and its scientists and technicians have established an international reputation as a result of their technical accomplishments.

With the establishment of a museum and riverfront interpretative site in Vicksburg, an understanding of the lower Mississippi River and the role of the Army Corps of Engineers will be available to thousands of visitors each year from this country and around the world. This site will serve to enlighten visitors to the role of the corps in navigation, flood control, and environmental conservation, and it will promote the worldwide application of water resource technologies developed through the working model of the Mississippi River.

I ask unanimous consent that a copy 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. 2830

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 "Lower Mississippi River Museum and Riverfront Interpretive Site Act of 1992".

SEC. 2. FINDINGS; DEFINITIONS.

(a) FINDINGS.—The Congress finds the following:

(1) The Army Corps of Engineers has a significant role in managing the Mississippi River for flood control, navigation, commerce, and safety.

(2) In 1879, Congress established the Mississippi River Commission, headquartered in Vicksburg, Mississippi, to promote commerce, trade, the postal service, flood control, and ease of navigation on the Mississippi River.

(3) The Act entitled "An Act for the control of floods on the Mississippi River and its tributaries, and for other purposes", approved May 15, 1928 (commonly known as the Flood Control Act of 1928), authorized the Mississippi River and Tributaries Project, the largest water resources project in the United States for efficient navigation and comprehensive flood control, and directed the Mississippi River Commission to administer the project.

(4) In 1929, the Army Corps of Engineers established the Army Corps of Engineers Waterways Experiment Station in Vicksburg, Mississippi, to test flood control plans for the Mississippi River.

(5) The Army Corps of Engineers Waterways Experiment Station is the center of expertise for the United States in coastal engineering, concrete technology, and the environmental effects of water resource projects and has established an international reputation through technical accomplishments and worldwide applications.

(6) The Lower Mississippi Valley Division of the Army Corps of Engineers is responsible for monitoring the Army Engineer Districts in St. Louis, Missouri; Memphis, Tennessee; Vicksburg, Mississippi; and New Orleans, Louisiana.

(7) The Lower Mississippi Valley Division of the Army Corps of Engineers and the Vicksburg Army Engineer District are located in Vicksburg, Mississippi.

(8) In 1899, Congress established the Vicksburg National Military Park to preserve and interpret a major battlefield of the Siege of Vicksburg, a pivotal Civil War engagement, and to recognize the important role of the Mississippi River in the Civil War, and in the history of the United States in general.

(9) The Mississippi River Corridor Study Commission Act of 1989 (104 Stat. 855) recognizes the unique and nationally significant resources of the Mississippi River Corridor.

(10) The establishment of a museum and riverfront interpretive site in Vicksburg, Mississippi, will increase regional tourism, foster the education of the public concerning local resource values, stimulate economic growth, and lead to an expansion of the work force in the area of Vicksburg, Mississippi, and the Lower Mississippi Valley.

(b) DEFINITIONS.—As used in this Act:

(1) INTERPRETIVE FACILITY.—The term "interpretive facility" means the interpretive facility established under section 3(a).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Army.

SEC. 3. ESTABLISHMENT.

(a) ESTABLISHMENT.—The Secretary shall establish and operate, in accordance with this Act, an interpretive facility that contains a museum and interpretive site in Vicksburg, Mississippi. The interpretive facility shall be known as the "Lower Mississippi River Museum and Riverfront Interpretive Site".

(b) LOCATION OF MUSEUM.—The museum of the interpretive facility shall be located on property of the Resolution Trust Corporation in the vicinity of the Mississippi River Bridge in Vicksburg, Mississippi. The Executive Director of the Resolution Trust Corporation shall transfer title to the property to the Department of the Army, at no cost to the Department of the Army.

(c) INTERPRETIVE FACILITY SITE.—The interpretive site of the interpretive facility shall be located on riverfront property between the Mississippi River Bridge and the Mississippi Riverpark in Vicksburg, Mississippi. The Secretary is authorized to acquire surface use easements for the interpretive site only with the consent of the owner.

(d) LIMITATION ON ACQUISITION AUTHORITY.—For the purposes of carrying out this Act, the Secretary may acquire property only with the consent of the owner.

SEC. 4. PURPOSES OF THE INTERPRETIVE FACILITY.

The purposes of the interpretive facility established under section 3(a) are to—

(1) promote an understanding of the Lower Mississippi River and the role of the Army Corps of Engineers in developing and managing the Lower Mississippi River as a nationally significant resource;

(2) interpret the historic presence of the Army Corps of Engineers in the Lower Mississippi River Valley and the administration by the Army Corps of Engineers of the Mississippi River and Tributaries Project referred to in section 2(3).

(3) provide an understanding of the branches and facilities of the Army Corps of Engineers in the Vicksburg area, and the relationship of the branches and facilities to flood control, navigation, and environmental conservation in the Mississippi River area;

(4) highlight the influence of the Mississippi River on the Vicksburg area and the natural, historic, and cultural contributions of the Mississippi River Valley area;

(5) highlight local Army Corps of Engineers projects and management strategies;

(6) provide an understanding of the surrounding natural riparian environment adjacent to the Mississippi River through public access and interpretive displays; and

(7) promote the worldwide application of water resource technologies developed through the use of the Mississippi River as a working model.

SEC. 5. RELATED AGENCIES AND PROGRAMS.

(A) SMITHSONIAN INSTITUTION.—The Secretary of the Smithsonian Institution shall assist in the planning and design of the interpretive facility.

(b) DEPARTMENT OF THE INTERIOR.—The Secretary of the Interior, acting through the Director of the National Park Service, shall assist in the planning, design, and implementation of interpretive programs for the interpretive facility.

(c) VISITOR SERVICES.—The Secretary shall provide increased and enhanced visitor services at the Army Corps of Engineers Waterways Experiment Station in Vicksburg, Mississippi.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Army such sums as may be necessary to carry out this Act (including such sums as may be necessary for acquiring and restoring property pursuant to

section 3(b), and planning, designing, and constructing the interpretive facility pursuant to this Act).

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2831. A bill to amend the Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes; to the Committee on Environment and Public Works.

WATER POLLUTION CONTROL AND ESTUARY RESTORATION FINANCING ACT

Mr. DODD. Mr. President, I rise today to introduce legislation which represents a unique coming together of Government, labor, environmental and construction industry groups to tackle the complex problems of our Nation's estuaries. I am pleased to be joined in this effort by Senator LIEBERMAN and appreciate the leadership of Congresswoman ROSA DELAURO and Congresswoman NITA LOWEY on this issue.

Our Nation's estuaries are of incalculable value. Millions of Americans live on their shores and fish and swim in their waters daily. In 1990, the EPA estimated that estuaries support fisheries whose value to the economy is more than $19 billion annually. Globally, an estimated two-thirds of all fish caught are hatched in estuaries. But unfortunately, serious problems plague our Nation's estuaries.

This weekend, my home State of Connecticut was buffeted by rainstorms which caused flooding worse than any experienced in the last decade. But the flooding was not the only damage—beaches and shellfish beds across the Sound were closed through the weekend and into Monday. Our State's wastewater treatment facilities are sorely out of date and unable to handle the excess water which streams into their systems after a heavy rainfall. They overflow and untreated sewage spills into the Sound fouling the beaches and shellfish beds. And when it isn't raining, so many nutrients enter the Sound from treatment plants and runoff that algae grows at an unprecedented rate consuming large amounts of oxygen and the oxygen levels which can result are so low that even fish cannot breathe.

The Long Island Sound is not alone in these problems. From Puget Sound to Sarasota Bay, our estuaries are in need of help. In the Albemarle/Pamlico Sounds, bordering both Virginia and North Carolina, 50,000 acres of shellfish waters have been closed since 1970. In Massachusetts, sediment on the bottom of the Acushnet River near New Bedford is so contaminated from industrial discharge of PCB's that the area has been designated a Superfund hazardous waste site. The health of our estuaries is not simply an environmental concern, our economy feels these losses—oystermen lose access to oyster beds profitable in the past, fishermen find their jobs harder as these resources become more taxed and closed beaches add up to few tourism dollars.

The problems of estuaries are not new and some important steps have already been taken to begin to address them. In 1987, we approved the creation of the National Estuary Program administered under the Clean Water Act by the EPA. Medical waste, a terrible problem in years past, no longer washes up on our shores because of an amendment I and others worked so hard for in 1988. In Connecticut, it was just this year that an office of the EPA was opened on the Long Island Sound. And under the umbrella of the National Estuary Program, we have learned much about our estuaries—how they work, what their problems are and how we can fix them.

The National Estuary Program [NEP] is built on a flexible structure of public/private and local/Federal partnerships to address the different needs of each estuary. The goal—the restoration of the estuary—shapes the development of a Comprehensive Conservation and Management Plan for each estuary. Management conferences, made up of interested local groups and State and Federal officials, are convened to develop a management plan which will restore the estuary and be supported by those in the community.

In Connecticut, the NEP has fostered a greater understanding of and concern about the Sound. There are few communities along the shore without an active Long Island Sound conservation group. But there is also in my State a growing awareness among a group, which includes some unlikely advocates, that the Sound is not just an environmental concern, to be pushed aside during hard economic times—the restoration of the Long Island Sound is recognized for what it truly is, an economic issue, an issue of jobs and natural resources and an issue of the quality of life for so many in New York and Connecticut.

In January of this year, a meeting of the Long Island Sound Watershed Alliance was picketed by 1,200 union members concerned about environmental regulations and lost jobs. Unfortunately, such confrontations are not uncommon in these hard economic times. And given the diverse, indeed seemingly divergent, interests of these groups, most would have declared an impasse and headed home.

But these environmental and labor representatives began a dialog of their concerns and found common ground on the very same issues which had at first glance divided them—the restoration of the Sound and jobs.

There are many problems which contribute to the overall health of the Sound, but what the Long Island Sound needs most is an investment in new wastewater treatment facilities—facilities that are up to code, facilities that can handle a heavy rainfall, and facilities that can remove nutrients from wastewater before it is released into the Sound. And the construction and repair of these facilities mean the creation of thousand of jobs. During a recession this powerful economic argument has brought these diverse groups together behind a common platform of jobs and clean water and of support for this legislation. Just last week, I received a letter signed by 68 groups from the Audubon Society to the Carpenters Union in support of this measure which has already been introduced in the other body by Congresswomen DELAURO and LOWEY.

The Water Pollution Control and Estuary Restoration Financing Act continues the State revolving loan fund program which has been the mechanism through which communities across the Nation have rebuilt their wastewater treatment facilities and which is scheduled to expire in fiscal year 1994. States with approved estuary management plans are qualified to set up within their SRF a separate estuary account solely for use in implementing approved plans. The account is funded through a set-aside of authorized funds, beginning at 2.5 percent in fiscal year 1993 and increasing to 15 percent by fiscal year 1998. These set aside funds will be provided in addition to a State's normal SRF allocation and will be matched with some State contributions. With the estuary account, States will have a more flexible tool at their disposal in addressing the problems of estuaries. States could provide up to 40-year amortization periods for loans, no interest loans, and subsidization of debt service for communities that could not otherwise fund necessary projects.

The Federal Government, through the National Estuary Program, has assisted States in identifying the problems in their estuaries and in discovering the solutions. However, the Federal commitment has not gone far enough. We mandated clean water measures, but have not provided hard-pressed communities with adequate assistance to meet the high costs of implementing these measures. Currently, communities in my State are under court orders, totalling $2.2 billion, to meet clean water act requirements and update their sewage treatment facilities. The estuary management plans are nearly complete, and yet it is clear there are not sufficient resources to implement them. We must renew the Federal commitment to these communities and provide them with the tolls necessary to make these much needed investments in our environmental infrastructure.

The Estuary Financing Restoration Act is not the answer to all of the issues surrounding the reauthorization of the Clean Water Act. The Clean Water Act addresses the myriad of

problems affecting our Nation's waters. But this legislation offers a solid approach which I believe will move forward on this critical debate about one of our Nation's most vital resources—estuaries.

Mr. President, I ask unanimous consent that a summary of this legislation be printed in the RECORD.

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

WATER POLLUTION CONTROL AND ESTUARY RESTORATION FINANCING ACT OF 1992

Reauthorization of the State Revolving Fund Loan Program: The State Revolving Loan Fund (SRF) program, scheduled to expire in FY94, is reauthorized through 1999. The Fund is authorized at $2.4 billion in FY93 and increases to $4 billion per year thereafter to address the nation's pressing water quality needs.

Estuary Account Created in the SRF: States with approved estuary conservation and management plans are qualified to set up within their SRF a separate Estuary Account solely for use in implementing approved plan. The account is funded through a set-aside of authorized funds of 2.5% in 1992, increasing to 15% by 1998. These set-aside funds will be provided in addition to a state's normal SRF allocation.

States with Estuary Accounts will receive funding based on their needs in relation to overall funding levels. The EPA Administrator is also directed to assess funding needs for all approved estuary management plans.

SRF Funding Broadened for States' Use of Estuary Account Fund: States can provide up to 40-year amortization periods for loans, no interest loans and subsidization of debt service for communities that could not otherwise fund projects necessary for implementation of an approved plan.

EPA Responsibility for Implementation of Approved Estuary Plans: The National Estuaries Program (NEP) is reauthorized and is amended to make clear the EPA's non-discretionary duty to implement approved management plans. The EPA is also required to provide necessary levels of funding and staffing to meet its obligation under the NEP.

NEP Plans to Pass More Rigorous Tests for Approval: The NEP is amended to require that approved plans include specific estimates of funding needs and a comprehensive strategy for cost-effective implementation. NEP management conferences would also be required to set priorities early and follow EPA guidelines for development, approval and implementation of management plans.

NEP Grant Funding for Innovation Projects Increased: Grant funding is focused on innovative projects such as polluted runoff abatement efforts, integrated farm management planning and educational efforts not ordinarily funded through the SRF program. Grant funding is authorized at $50 million.

Opportunity for Public Comment Expanded: Opportunities for public comment and participant in the development, approval and implementation of management plans are expanded.

NEP Conference Extended: Management conference can be extended for an additional 5 years for the purpose of implementing and monitoring of approved management plans.

Mr. LIEBERMAN. Mr. President, I'm pleased to support my friend and colleague, Senator CHRIS DODD, by joining him as a cosponsor of the Water Pollution Control and Estuary Restoration Financing Act of 1992. And I commend my friends in the House, Congresswoman ROSA DELAURO and Congresswoman NITA LOWEY, who first introduced this bill, for their leadership and their commitment to solve one of the great environmental tragedies in our country, the degradation of our Nation's estuaries.

This bill does two things of importance. It continues one of the most successful programs of environmental cleanup in our Nation's history, the State Revolving Loan Fund Program for sewage treatment infrastructure, and it sets aside an increasing percentage of that fund for our coastal areas. In particular, it seeks to direct Federal dollars toward the cleanup of estuaries of national significance.

This bill is also timely. This year, the Clean Water Act is up for reauthorization in the Environment and Public Works Committee, on which I serve. The State Revolving Fund Program that States have relied upon for assistance in upgrading their sewage treatment plants is due to be discontinued by 1994. The committee leadership is in agreement that the State Revolving Fund should continue. Currently funded at approximately $2 billion per year, the fund cannot begin to meet the $100 billion extant need for sewage infrastructure in this country.

This problem is particularly acute in coastal areas and estuary States. In Long Island Sound, for example, the estimated cost of upgrading the outdated and overburdened sewage treatment plants responsible for most of the Sound's pollution is estimated at $6 billion. That's a $6 billion cost of one estuary, when the Federal Government only antes up $2 billion a year for the entire country.

The bill before us seeks to redress this problem by increasing the amount of money that goes into the State Revolving Fund Program, and at the same time, setting aside an increasing percentage of that Fund for estuary States. States such as Connecticut which would benefit from this new system would be required, however, to submit a clean-up plan for their estuary to the U.S. Environmental Protection Agency for approval.

I agree with the objectives of this bill: continue Federal funding for water infrastructure; increase the amount the Federal Government puts into it; direct that amount to the areas of greatest need. However, as I have said in the past and as I will continue to advocate within the Environment Committee, the commitment to cleaning up our natural resources must come from those who are most dependent on that resource. That is the beauty of our National Estuary Program as it is now written. The Federal Government puts up the money for a study of an estuary of national significance once the governor of the affects State or States agrees up front to implement the recommendations of that study. The study, in fact, is to result in a Comprehensive Conservation and Management Plan. This comprehensive planning is done by the State and local governments in conjunction with U.S. EPA. As things stand now, though, the Federal Government pulls out after the study is completed and leaves it to the States to find the revenues to do so. This bill would create a new and continuing Federal responsibility for funding that clean-up. The Federal Government should share responsibility, but, of course, there is not enough money in the budget to fund every State's cleanup. In addition, studies have shown that the closer the responsibility for funding a project is to those who will actually benefit from the project, the less likely the costs will be inflated.

Therefore, we should continue to explore some additional options: First, More money should go into setting criteria for what makes a successful study and clean up plan and for completing those studies for estuary States; second, One of the new criteria ought to be that States identify sources of cleanup funding—other than the Federal Government; in their study and plan; and third, States which are willing to match Federal dollars at a higher rate should get more money.

Frankly, Mr. President, I would like to see these points extended to watershed-based planning throughout the country. I think that as we realize greater success from ratcheting down on point source water pollution and begin to confront the more diverse causes of non-point source pollution of our waters—caused by everything from agricultural and street runoff to atmospheric deposition—it's clear that we can solve our water pollution problems only by beginning first with comprehensive planning on a watershed basis as is now undertaken by most estuary program States. This would allow local governments to reclaim decision making authority about how best to meet the requirements of the Federal clean water Act. We would reward initiative and local investment with greater Federal assistance.

The other alternative direction that I have advocated for some time in the context of clean water funding it that it should target those areas of greatest need. We need an overhaul of the funding formula that is currently directing our clean water dollars. States like my own Connecticut which rank high on EPA's list of neediest get much less than other less-needy States, despite the fact that we match Federal clean water dollars roughly 10 to 1. That's not right, Mr. President, and I will fight in committee to try to change that. I think we should consider adopting the model we used for the Surface

Transportation Act reauthorization last year: increase the amount in the general pot while changing the allocation formula over time by degree.

The other lesson I think we learned on the highway bill and can apply to the clean water bill is that Federal investment in infrastructure is good for the economy. Apogee Research, Inc. conducted a study for the National Utility Contractors Association that found that every $1 billion invested in water infrastructure produces between 34,000 and 57,000 new jobs. The bill before us which would provide $26 billion over 7 years (an increase of $8 billion over the levels authorized for the previous 7 years). This could thus result in over 800,000 new jobs. Interestingly, and astutely, I think, the labor and environmental organizations in my State of Connecticut have joined together to support this bill. They realize their interests are not in conflict, and they're working in coastal States around the country to reproduce their coalition. Not only would this kind of Federal investment in infrastructure create traditional construction and engineering jobs, but if we structure it right, we could be supporting the development of new and critical water pollution treatment strategies which will have the double benefit of cleaning up our Nation's waters and securing our country a niche in the global marketplace for new and environmentally beneficial technologies.

According to the Center for Marine Conservation, by the year 2000, "three out of four of us will live within an hour's drive from the coast. Coastal counties nationwide can expect to double in population by 2010." Fifteen percent of our Nation's population lives within 50 miles of Long Island Sound, alone. We move to the coast for its quality of life. Unfortunately, the more of us who move there, the more strain we place on its resources. I am proud of the work Connecticut and New York are doing with their National Estuary plan to try to plan long-term for this growth and to reverse the hundred years of abuse we've heaped on Long Island Sound. It's clear, however, that we need help. If the Federal Government is to be perceived as serious about designating estuaries "of national significance," we are going to have to target some of our national dollars toward returning them to health. And those States which reap the benefits of cleaner estuaries must be willing to meet us halfway.

By Mr. BOND (for himself, Mr. GLENN, Mr. COATS, Mr. GRASSLEY, Mr. DIXON, Mr. CONRAD, Mr. MCCONNELL, Mr. SIMON, Mr. PRESSLER, Mr. DURENBERGER, and Mr. JOHNSTON):

S. 2832. A bill to require that all Federal printing be performed using cost-competitive inks whose pigment vehicles are made entirely from soybean oil, and for other purposes; to the Committee on Rules and Administration.

ALL-SOY INK PRINTING ACT

• Mr. BOND. Mr. President, today I, along with Senators GLENN, COATS, GRASSLEY, DIXON, CONRAD, MCCONNELL, SIMON, PRESSLER, DURENBERGER, and JOHNSTON introduce the All-Soy Ink Printing Act of 1992. This legislation would require all Federal agencies, the Government Printing Office and its contractors, to use ink made with soy pigment and all-soy ink when it is commercially available and economically feasible.

As we have seen over the last year, the importance of soybeans and soybean products for our domestic agricultural economy and for the health of our Nation's farm export continues to grow. The increased use of soybean oil ink would help decrease our reliance on foreign oil that is used in the petroleum-based inks, reduce risks to our environment, and help over half a million American farmers who currently grow soybeans.

According to the American Soybean Association, if all newspaper ink were made from soybean oil, the oil from 35 to 40 million bushels of soybeans would be utilized. However, as soy ink use broadly expands into other printing mediums, soybean usage could approach the 100 million bushel level—or the soybean production from approximately three million acres of cropland.

Research to develop soybean oil-based printing ink has been a phenomenal success. Since 1987, soy ink has been successfully used by newspapers for black and color printing. Soy ink is now being used by one-half of the Nation's 9,100 newspapers, including 75 percent of the 1,700 daily newspapers. Some Missouri papers using soy ink are the St. Joseph News-Press/Gazette, Kansas City Star, Clarence Courier, Bolivar Herald-Free Press, the Trenton Republican-Times, and the Rural Missouri.

Soy ink has less ruboff than petroleum based inks, is environmentally safer, has outstanding color and is made from renewable resource. Soy ink also enhances the paper recycling process and contributes to better quality recycled paper. Since soy ink is more easily removed from paper pulp, there is less damage to paper fibers in the deinking process.

Many States, like my home State of Missouri, are ahead of the Federal Government in using soy inks for their State government printing work. I urge Members of the Senate to support this legislation.•

• Mr. GLENN. Mr. President, I rise today to join my colleague, Senator BOND in introducing the All-Soy Ink Printing Act of 1992. This legislation requires all Federal agencies, the Government Printing Office [GPO] and its contractors to use cost-competitive newsprint ink made with soy pigment vehicles and all-soy ink when it is commercially available and economically feasible.

I have long been an advocate of increasing demand or uses for farm or forest products. We need to develop new nonfood uses for traditional commodities and develop alternative farm and forest products. The increased demand will result in higher prices for these goods, and, thereby decrease Government subsidies. Given our current budget constraints, this result will certainly be welcome.

There is potential for great gains in the development of new nonfood uses for agricultural commodities. Right now corn starch is used not just in producing alcohol but also in manufacturing paper products, building materials, textiles, and adhesives. A component of corn starch can be used as an additive to polyethylene to create biodegradable plastics. Industrial uses for corn by-product also include application as a highway de-icer, desulfurizing coal, and improving the quality of motor fuel. A new crop surfactant, Preference, made from a soybean by-product has been developed and is available this growing season and Soydiesel is becoming the oil of choice in U.S. biodiesels. A commitment to develop these uses further will not only increase domestic demand for agricultural products but may increase demand from overseas as well.

Since 1987, soy ink has been successfully used by newspapers for both black and color printing. Use of color inks is more widespread because color inks are more equally priced with petroleum-based color inks. Color ink prices are driven by the pigment content unlike black inks, which are 75 to 85 percent oil. As a result, the price black soy ink is driven by the price of the oil component making it slightly more expensive than conventional inks on a pound for pound basis.

Printing ink made from soybean oil rather than petroleum is fast becoming a source reduction success story. First, soybean oil does not evaporate the way petroleum does, releasing harmful volatile organic compounds into the air and contributing to smog. Soybean inks can reduce ink and paper waste because the necessary balance between ink and water can be achieved more easily. Soybean oil ink colors are more vibrant and can be matched to colors achieved using petroleum oil. Soybean oil is less likely to rub off on clothing and hands.

This legislation will help stimulate demand for agricultural commodities by finding a market for soybean oil ink. The increase use of soybean oil ink will also help ease our reliance on foreign oil that is used in the petroleum-based inks, reduce risks to our environment, and help American farmers who grow soybeans. I urge my colleagues to

join me in cosponsoring this important bill.●

● Mr. SIMON. Mr. President, I am pleased to join our colleague from Missouri, Senator BOND in introducing the All-Soy Ink Printing Act of 1992. I have long promoted the benefits of soy-based inks, and I was gratified to have been able to pioneer the use of soy-based ink in our Senate print shop. Soybean oil by now has proven itself a viable alternative to petroleum in the manufacture of printing inks. Soybean oil-based printing inks were developed in 1985 by the American Newspaper Publishers Association after a second shortage of imported oil threatened many industries dependent on petroleum-based chemicals and refined oil products. Scientists at the National Center for Agricultural Utilization Research in Peoria, IL have been working on new technologies in offset inks for over 2 years now. This effort will soon yield a product that will appeal to a larger share of the Nation's newspaper publishers.

Since 1987, soy ink has been successfully used by newspapers for both black and color printing. At the end of the first marketing year for soy ink, six newspapers were using it. One thousand newspapers had used it at the end of its second year. On its third anniversary, soy ink was being used by one-third of the nation's 9,100 newspapers, including one-half of the 1,700 U.S. daily newspapers. Usage has expanded because of the advantages soy ink has for agriculture, the environment, and for our economy.

If all newspaper ink were to be made from soy oil, it would utilize the oil from 30 to 40 million bushels of soybeans. However, newspapers use only 7 percent of the soy ink manufactured. Commercial printers use 19 percent and magazines use 28 percent. As soy ink for those markets becomes more popular, usage would approach the 100-million bushel level. That represents the soybean production from approximately 3 million acres.

This legislation follows the lead that several States have taken to promote the early growth of the market for soy inks. Along with Illinois, six States—Iowa, Minnesota, Missouri, Ohio, South Dakota, and Wisconsin—have legislation passed or pending that require use of soy ink on all printing jobs contracted by the State.

Soy ink is environmentally more benevolent because it is biodegradable. Soy ink also minimizes production of volatile organic compounds, which are being regulated in the workplace by the EPA and others. Petroleum ink violates these limits. This is one reason officials of the American Newspaper Publishers Association suggest that soy inks may be the solution to current and future environmental, health, and safety problems, associated with petroleum-based inks.

I commend my colleague from Missouri for his leadership on this bill. And, I am hopeful that our colleagues in the Senate will support this measure.●

● Mr. CONRAD. Mr. President, I am pleased to join my colleagues today in introducing legislation to mandate the use of soy ink by Federal agencies, when the ink is competitively priced.

After years of tests and refinement, it is time for this unique soybean product to be recognized. The quality and durability of soy-based inks are paramount to that of petroleum-based newsprint inks. Soy ink offers greater resistance against smudging and provides greater clarity. In addition, from an oil content standpoint, soy ink is more cost efficient than black ink.

The superb quality and cost-efficiency of soy ink are reflected by the use of the ink by North Dakota newsprint businesses. Of 112 newsprint locations surveyed throughout my State by the North Dakota Soybean Council, 71 were found to use soy ink. In other words, 63 percent of these businesses use soy-based ink. That is quite an endorsement for the product.

This directive could also lend a tremendous boost to the soybean industry by increasing viable market opportunities for one of its alternative uses. In this age of global competition, we need to further strengthen the marketability of all the commodities grown in the United States.

I fully support this legislation, and I am hopeful that as my colleagues in the Senate learn more about it, they will lend their support as well.●

ADDITIONAL COSPONSORS

S. 757

At the request of Mr. LEAHY, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 757, a bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes.

S. 767

At the request of Mr. SANFORD, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 767, a bill to designate certain lands in the State of North Carolina as wilderness, and for other purposes.

S. 844

At the request of Mr. DOMENICI, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 844, a bill to provide for the minting and circulation of one-dollar coins.

S. 1032

At the request of Mr. DANFORTH, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1032, a bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes.

S. 1357

At the request of Mr. BREAUX, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1476

At the request of Mr. DANFORTH, the names of the Senator from Kansas [Mr. DOLE] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 1476, a bill to recognize the organization known as the Shepherd's Centers of America, Incorporated.

S. 1810

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1810, a bill to amend title XVIII of the Social Security Act to provide for corrections with respect to the implementation of reform of payments to physicians under the medicare program, and for other purposes.

S. 2277

At the request of Mr. COHEN, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2277, a bill to amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes.

S. 2373

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2373, a bill to amend the Job Training Partnership Act to establish a community works progress program, and a national youth community corps program, and for other programs.

S. 2385

At the request of Mr. RIEGLE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2385, a bill to amend the Immigration and Nationality Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of United States permanent resident aliens, and for other purposes.

S. 2387

At the request of Mr. LEAHY, the names of the Senator from North Caro-

lina [Mr. SANFORD] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 2387, a bill to make appropriations to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children [WIC] and of Head Start programs, to expand the Job Corps program, and for other purposes.

S. 2484

At the request of Mr. KASTEN, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2516

At the request of Mr. BINGAMAN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2516, a bill to amend the National Security Act of 1947 to revise the functions of the National Security Council and to add the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative to the statutory membership of the National Security Council.

S. 2517

At the request of Mr. BINGAMAN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2517, a bill to amend title 10, United States Code, to rename the Defense Advanced Research Projects Agency as the National Advanced Research Projects Agency, to expand the mission of that agency, and for other purposes.

S. 2540

At the request of Mr. COATS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2540, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of individual medical savings accounts to assist in the payment of medical and long-term care expenses and other qualified expenses, to provide that the earnings on such accounts will not be taxable, and for other purposes.

S. 2624

At the request of Mr. GLENN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2624, a bill to authorize appropriations for the Interagency Council on the Homeless, the Federal Emergency Management Food and Shelter Program, and for other purposes.

S. 2670

At the request of Mr. SANFORD, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2670, a bill to identify Federal programs and agencies that are obsolete and should be eliminated or which are duplicative and should be consolidated with similar operations in other departments to promote efficiency in operation and uniformity of governmental action.

S. 2682

At the request of Mr. BUMPERS, the names of the Senator from Indiana [Mr. COATS], the Senator from Iowa [Mr. HARKIN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2773

At the request of Mr. DANFORTH, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2773, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring tax provisions, and for other purposes.

S. 2774

At the request of Mr. HOLLINGS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2774, a bill to authorize appropriations to the National Aeronautics and Space Administration for an Experimental Program To Stimulate Competitive Research on Space and Aeronautics.

S. 2805

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2805, a bill to strengthen United States laws to enforce economic embargoes against foreign countries pursuant to a declaration of national emergency or United Nations Security Council measures, and for other purposes.

S. 2826

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2826, a bill to reaffirm the obligation of the United States to refrain from the involuntary return of refugees outside the United States.

SENATE JOINT RESOLUTION 247

At the request of Mr. DOLE, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Missouri [Mr. DANFORTH], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 247, a joint resolution designating June 11, 1992, as "National Alcoholism and Drug Abuse Counselors Day."

SENATE JOINT RESOLUTION 274

At the request of Mr. DODD, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of Senate Joint Resolution 274, a joint resolution to designate April 9, 1992, as "Child Care Worthy Wage Day."

SENATE JOINT RESOLUTION 278

At the request of Mr. DODD, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 278, a joint resolution designating the week of January 3, 1993, through January 9, 1993, as "Braille Literacy Week."

SENATE JOINT RESOLUTION 288

At the request of Mr. LIEBERMAN, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Michigan [Mr. RIEGLE], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 288, a joint resolution designating the week beginning July 26, 1992, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 294

At the request of Mr. LAUTENBERG, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Montana [Mr. BURNS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Idaho [Mr. CRAIG], the Senator from New York [Mr. D'AMATO], the Senator from South Dakota [Mr. DASCHLE], the Senator from Arizona [Mr. DECONCINI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nebraska [Mr. EXON], the Senator from Georgia [Mr. FOWLER], the Senator from Ohio [Mr. GLENN], the Senator from Washington [Mr. GORTON], the Senator from Tennessee [Mr. GORE], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Florida [Mr. MACK], the Senator from Maine [Mr. MITCHELL], the Senator from New York [Mr. MOYNIHAN], the Senator from Nevada [Mr. REID], the Senator from Delaware [Mr. ROTH], the Senator from North Carolina [Mr. SANFORD], the Senator from California [Mr. SEYMOUR], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Colorado [Mr. WIRTH], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Joint Resolution 294, a joint resolution to designate the week of October 18, 1992 as "National Radon Action Week."

SENATE CONCURRENT RESOLUTION 113

At the request of Mr. MOYNIHAN, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Nebraska [Mr. KERREY], the Senator from Texas [Mr. GRAMM], the Senator from Maine [Mr. COHEN] the Senator from Iowa [Mr. HARKIN], the Senator from Oklahoma [Mr. NICKLES], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Concurrent Resolution 113, a concurrent resolution concerning the 25th anniversary of the reunification of Jerusalem.

AMENDMENTS SUBMITTED

WORKPLACE FAIRNESS ACT

DECONCINI AMENDMENT NO. 1869

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill (S. 55) to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes, as follows:

At the end of the bill, add the following new section:

SEC. . ECONOMIC STRIKES AND THE HIRING OF CERTAIN PERMANENT REPLACEMENTS.

Section 10 of the National Labor Relations Act is amended by adding at the end thereof the following new subsections:

"(n) Notwithstanding any other provision of law, in administering this Act with respect to the unfair labor practices described in section 8(a), the Board shall construe the provisions of such section 8(a) as extending to employees who engage in strikes for economic reasons.

"(o) With respect to a charge filed under this section that a person has engaged or is engaging in an unfair labor practice, the Board shall prohibit the employer involved from promising, threatening, or taking any other action to hire a permanent replacement for the employee or employees involved prior to the final disposition of the charge by the Board, or the court if an appeal of any order of the Board concerning such charge is taken.".

DURENBERGER AMENDMENT NOS. 1870 AND 1871

(Ordered to lie on the table.)

Mr. DURENBERGER submitted two amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 1870

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. FINDING.

Congress finds that the lack of timely adjudication of unfair labor practice charges in connection with labor disputes were permanent replacements have been utilized poses an obstacle to continued stable labor relations in this country.

AMENDMENT NO. 1871

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. FINDING.

Congress finds that the lack of timely adjudication of unfair labor practice charges in connection with labor disputes where permanent replacements have been utilized poses an obstacle to continued stable labor relations in this country.

SEC. 2. FACILITATE ADJUDICATION OF UNFAIR LABOR PRACTICE CHARGES.

(a) PRIORITY OF CASES.—Section 10(m) of the National Labor Relations Act (29 U.S.C. 160(m)) is amended—

(1) by striking out "(a)(3) or (b)(2)" and inserting in lieu thereof "(a)(3), (a)(5), (b)(2), or (b)(3)"; and

(2) by adding at the end thereof the following new sentence: "In cases where a collective bargaining agreement has expired and a person alleges that a party to a collective bargaining agreement has failed to negotiate in good faith as required by the Act, and where permanent replacements have been hired, an expedited investigation and adjudication procedure shall be available as described in subsection (n).

(b) TIMETABLE FOR ADJUDICATION.—Section 10 of such Act (29 U.S.C. 160) is amended by adding at the end thereof the following new subsection:

"(n)(1) In cases described in the last sentence of subsection (m), administrative law judges shall have 60 days in which to hold a hearing after a complaint has been filed under this section. After such hearing has occurred and the parties have filed their briefs with respect to such, the administrative law judge involved shall have not more than 60 days to issue a decision with respect to such case.

"(2) A party in a case described in paragraph (1) shall have 30 days in which to file a brief with the Board containing exceptions to the decision of an administrative law judge under such paragraph. Other parties shall have 15 days in which to file their briefs in response to such exceptions.

"(3) The Board shall have 90 days after the date on which a brief has been filed under paragraph (1), to issue a decision in the case. Such period may be extended for an additional 30 days if an oral argument is scheduled.".

DOLE AMENDMENT NOS. 1872 AND 1873

(Ordered to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 1872

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

":

"except that this paragraph shall not apply (1) in the case of a labor organization that has engaged in threats of violence, acts of violence, harassment or intimidation in connection with the labor dispute involved, against the employer, against any of its agents, against any employees or against an employer's property; (2) or to a labor dispute that costs the State, city, county or other political subdivision of the State in which the dispute occurs more than $50,000 in additional wages and overtime expenses for law enforcement or other employees of that State, city, county or political subdivision, or (3) in the case that any employee who, under the terms of the employer's last contract offer, would be paid in wages and benefits an amount that exceeds 150 percent of the per capita personal income of persons employed within the State in which that employee is employed.".

AMENDMENT NO. 1873

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE.

Notwithstanding any other provision of law, the amendments made by this Act shall become effective on the date on which the House of Representatives and the Senate adopt a Concurrent Resolution that provides employees of such House and Senate with same rights to organize, bargain collectively and strike as employees in the private sector have under the National Labor Relations Act, except that the appropriate United States district courts, rather than the National Labor Relations Board, shall be the applicable forum for adjudicating unfair labor practice cases and representation proceeding.".

NICKLES AMENDMENT NOS. 1874 AND 1875

(Ordered to lie on the table.)

Mr. NICKLES submitted two amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 1874

At the appropriate place, insert the following:

SEC. . ECONOMIC AND EMPLOYMENT IMPACT ACT OF 1992.

(1) SHORT TITLE.—This section may be cited as the "Economic and Employment Impact Act of 1992".

(b) LIMITATION ON EFFECT OF ACT.—None of the provisions of this Act shall become effective unless the Committee on Labor and Human Resources requests and receives an economic impact statement as provided in subsection (c).

(c) IMPACT STATEMENT.—

(1) PREPARATION.—The Committee on Labor and Human Resources shall request that the Comptroller General of the United States prepare an economic and employment impact statement, as described in paragraph (2).

(2) CONTENTS.—Except as provided in paragraph (3), the economic and employment impact statement required by paragraph (1) shall—

(A) state the extent to which enactment of this bill would result in increased costs to the private sector, individuals, or State and local governments; and

(B) include, at a minimum, a detailed assessment of the annual impact of this bill (projected annually over a 5-year period from its effective date, and, to the extent feasible, expressed in each case monetary terms) on—

(i) costs to United States and consumers and employees;

(ii) costs to United States employers;

(iii) national employment;

(iv) the ability of United States employers to compete internationally;

(v) affected State and Local government employers, fiscal and otherwise;

(vi) outlays and revenues by the Federal Government as compared to outlays and revenues for the same activity in the current fiscal year (as reported by the Congressional Budget Office); and

(vii) impact on Gross Domestic Product.

(3) EXCEPTION.—The economic and employment impact statement required by paragraph (1) may consist of a brief summary assessment in lieu of the detailed assessment set forth in paragraph (2) if preliminary analysis indicates that the aggregate effect of this bill as measured by the criteria set forth in subclauses (i) through (vii) of paragraph (2)(B) is less than $10,000,000 or the loss of 1,000 jobs in national employment.

AMENDMENT NO. 1875

At the end of the bill, add the following new sections:

SEC. . SHORT TITLE.

This Act may be cited as the "Congressional and Presidential Accountability Act of 1991."

SEC. . COVERAGE OF CONGRESS AND PRESIDENTIAL APPOINTEES.

(a) CONGRESSIONAL EMPLOYMENT.—

(1) APPLICATION.—

(A) IN GENERAL.—The rights and protections provided pursuant to the provisions specified in subparagraph (B) shall apply with respect to employment by Congress.

(B) PROVISIONS.—The provisions that shall apply with respect to employment by Congress shall be—

(i) the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.);

(ii) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(iii) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);

(iv) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(v) section 1977 of the Revised Statutes (42 U.S.C. 1981);

(vi) section 1977A of the Revised Statutes (as added by section 102 of the Civil Rights Act of 1991, if enacted);

(vii) the National Labor Relations Act (29 U.S.C. 151 et seq.);

(viii) the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.);

(ix) the Equal Pay Act of 1963 (29) U.S.C. 206); and

(x) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) ENFORCEMENT BY ADMINISTRATIVE ACTION.—

(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to the limitations contained in this paragraph, a congressional employee or any person, including a class or organization on behalf of a congressional employee, may bring an administrative action before an administrative agency to enforce a provision of law referred to in paragraph (1) against Congress or the congressional employer of the employee, if a similarly situated complaining party may bring such an action before the agency.

(B) LIMITATIONS ON COMMENCEMENT OF ADMINISTRATIVE ACTION.—An administrative action commenced under this paragraph to enforce a provision of law referred to in paragraph (1) shall be commenced in accordance with the limitations, exhaustion, and other procedural requirements of the law otherwise applicable to a similarly situated complaining party seeking to enforce the provision.

(C) ACTION.—In any administrative action brought before an agency under this paragraph to enforce a provision of law referred to in paragraph (1), the agency may take such action against Congress or the congressional employer as the agency could take in an action brought by a similarly situated complaining party.

(A) ENFORCEMENT BY CIVIL ACTION.—

(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to the limitations contained in this paragraph, a congressional employee or any person, including a class or organization on behalf of a congressional employee, may bring a civil action to enforce a provision of law referred to in paragraph (1) in a court specified in subparagraph (C) against Congress or the congressional employer of the employee, if a similarly situated complaining party may bring such an action.

(B) LIMITATIONS ON COMMENCEMENT OF CIVIL ACTION.—A civil action commenced under this paragraph to enforce a provision of law referred to in paragraph (1) shall be commenced in accordance with the limitations, exhaustion, and other procedural requirements of the law otherwise applicable to a similarly situated complaining party seeking to enforce the provision.

(C) VENUE.—An action may be brought under this paragraph to enforce a provision of law referred to in paragraph (1) in any court of competent jurisdiction in which a similarly situated complaining party may otherwise bring an action to enforce the provision.

(D) RELIEF.—In any civil action brought under this paragraph to enforce a provision of law referred to in paragraph (1), the court—

(i) may grant as relief against Congress or the congressional employer any equitable relief otherwise available to a similarly situated complaining party bringing an action to enforce the provision;

(ii) may grant as relief against Congress any damages that would otherwise be available to such a complaining party; and

(iii) shall allow such fees and costs as would be allowed in such an action.

(b) CONDUCT REGARDING MATTERS OTHER THAN EMPLOYMENT.—

(1) APPLICATION.—In accordance with section 509(a)(2) of the Americans with Disabilities Act of 1990 (as redesignated by section 315(1)(B) of the Civil Rights Act of 1991, if enacted), the rights and protections provided pursuant to such Act shall apply with respect to the conduct of Congress regarding matters other than employment.

(2) ENFORCEMENT.—Notwithstanding any other provision of law, any person may bring an administrative action described in subsection (a)(2) in accordance with such subsection, or a civil action described in subsection (a)(3) in accordance with such subsection, against Congress or a congressional employer, to enforce paragraph (1).

PRESIDENTIAL APPOINTEES.—

(1) APPLICATION.—The rights and protections provided pursuant to the provisions described in clauses (i) through (x) of subsection (a)(1)(B) shall apply with respect to employment of Presidential appointees.

(2) ENFORCEMENT.—Notwithstanding any other provision of law, a Presidential appointee or any person, including a class or organization on behalf of a Presidential appointee, may bring an administrative action described in subsection (a)(2) in accordance with such subsection, or a civil action described in subsection (a)(3) in accordance with such subsection, against the United States to enforce paragraph (1), if a similarly situated complaining party may bring such an administrative or civil action before the agency.

(d) OTHER ENFORCEMENT.—Notwithstanding any other provision of law, no congressional employee or Presidential appointee may commence a proceeding or action to enforce a provision of law specified in subsection (a)(1), (b)(1), (c)(1), (d)(1), or (e)(1), except as provided in this section.

(e) DEFINITIONS.—Notwithstanding any other provision of this Act, as used in this section:

(1) CONGRESSIONAL EMPLOYER.—The term "congressional employer" means—

(A) a supervisor, as described in paragraph 12 of rule XXXVII of the Standing Rules of the Senate;

(B)(i) a Member of the House of Representative, with respect to the administrative, clerical, or other assistants of the Member;

(ii)(I) a Member who is the chairman of a committee, with respect, except as provided in subclause (II), to the professional, clerical, or other assistants to the committee; and

(II) the ranking minority Member on a committee, with respect to the minority staff members of the committee;

(iii)(I) a Member who is a chairman of a subcommittee which has its own staff and financial authorization, with respect, except as provided in subclause (II), to the professional, clerical, or other assistants to the subcommittee; and

(II) the ranking minority Member on the subcommittee, with respect to the minority staff members of the committee;

(iv) the Majority and Minority Leaders and the Majority and Minority Whips, with respect to the research, clerical, or other assistants assigned to their respective offices; and

(v) the other officers of the House of Representatives, with respect to the employees of the officers; and

(C)(i) the Architect of the Capitol, with respect to the employees of the Architect of the Capitol;

(ii) the Director of the Congressional Budget Office, with respect to the employees of the Office;

(iii) the Comptroller General, with respect to the employees of the General Accounting Office;

(iv) the Public Printer, with respect to the employees of the Government Printing Office;

(v) the Librarian of Congress, with respect to the employees of the Library of Congress;

(vi) the Director of the Office of Technology Assessment, with respect to the employees of the Office; and

(vii) the Director of the United States Botanic Garden, with respect to the employees of the United States Botanic Garden.

(2) CONGRESSIONAL EMPLOYEE.—The term "congressional employee" means an employee who is employed by, or an applicant for employment with, a congressional employer.

(3) PRESIDENTIAL APPOINTEE.—The term "Presidential appointee" means an employee, or an applicant seeking to become an employee—

(A) whose appointment is made by and with the advice and consent of the Senate; or

(B) whose position has been determined to be of a confidential, policy-determining, policy-making, or policy-advocating character by—

(i) the President for a position that the President has excepted from the competitive service;

(ii) the Office of Personnel Management for a position that the Office has excepted from the competitive service; or

(iii) the President or head of an agency for a position excepted from the competitive service by statute.

(4) SIMILARLY SITUATED COMPLAINING PARTY.—The term "similarly situated complaining party" means—

(A) in the case of a party seeking to enforce a provision with a separate enforcement mechanism for governmental complaining parties, a governmental complaining party; or

(B) in the case of a party seeking to enforce a provision with no such separate mechanism, a complaining party.

(f) EFFECTIVE DATE.—This section shall take effect 120 days after the date of the enactment of this Act.

HATCH AMENDMENTS NOS. 1876 THROUGH 1991

(Ordered to lie on the table.)

Mr. HATCH submitted 116 amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 1876

At the appropriate place, insert the following:

"SEC. . No employer in the construction industry who withdraws from a collective bargaining agreement or multiemployer pension plan shall incur any withdrawal liability under subtitle E of subchapter II of the Employee Retirement Income Security Act, as amended, 29 U.S.C. 1361, et seq., if such withdrawal has occurred prior to two years from the date of enactment of this act."

AMENDMENT NO. 1877

At the appropriate place, insert the following new section:

"SEC. . Section 8(a)(3) of the National Labor Relations Act (29 U.S.C. 158(a)(3)) is amended—

(1) by striking out the semicolon at the end thereof and inserting in lieu thereof a colon; and

(2) by adding the following new proviso at the end thereof:

"*Provided further*, That nothing in this subsection shall permit any employer who has contracts with an agency of the United States of America for the furnishing of supplies or services, or for the use of real or personal property, including lease arrangements, to require membership in or financial support to any labor organization as a condition of employment."

AMENDMENT NO. 1878

At the appropriate place, insert the following new section:

"SEC. . Section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)) is amended—

(1) by striking out the period at the end thereof and inserting in lieu thereof a colon: and

(2) by adding the following new proviso at the end thereof:

"*Provided further*, That nothing in this subsection shall permit any employer engaged in the construction industry who has contracts with an agency of the United States of America to require membership in or financial support to any labor organization as a condition of employment."

AMENDMENT NO. 1879

At the appropriate place, insert the following:

"SEC. . Any person who is employed in the Office of Organized Crime and Racketeering (or its successor), Office of the Inspector General, Department of Labor, who conducts investigations of alleged or suspected felony criminal violations of statutes including but not limited to the Labor-Management Reporting and Disclosure Act of 1959, and the Employee Retirement Income Security Act of 1947, as administered by the Secretary of Labor or any agency of the Department of Labor and who is designated by the Inspector General of the Department of Labor may—

"(1) make an arrest without a warrant for any such felony criminal violation if such violation is committed in his presence or if such employee has probable cause to believe such violation is being committed in his presence or if such employee has probable cause to believe such violation is being or has been committed, by the person to be arrested, in the presence of such employee;

"(2) execute a warrant for an arrest for the search of premises, or the seizure of evidence if such warrant is issued under authority of the United States upon probable cause to believe that such violation has been committed; and

"(3) carry a firearm in accordance with rules issued by the Secretary of Labor, which such employee is engaged in the performance of official duties under the authority provided in section 6, or described in section 9, of the Inspector General Act of 1978."

AMENDMENT NO. 1880

At the appropriate place, insert the following:

SEC. . Section 501 of the Labor-Management Reporting and Disclosure Act (29 U.S.C. 501) is amended—

(1) by redesignating subsection (c) as subsection (d); and by adding the following new subsection (c):

"(c) CIVIL ACTIONS BY THE U.S. DEPARTMENT OF LABOR.—When any officer, agent, shop steward, or representative of any labor organization is alleged to have violated the duties declared in subsection (a) of this section, or where the Secretary of Labor is of the belief that such duties have been violated, the Secretary of Labor shall investigate the alleged violations and, where appropriate, institute a civil action in any district action in any district court of the United States to enforce the duties and requirements of subsection (a): *Provided*, That this subsection shall not act as a limitation on the rights of any member of a labor organization provided under subsection (b)."

AMENDMENT NO. 1881

At the appropriate place, insert the following:

"SEC. . Section 14(b) of the National Labor Relations Act (29 U.S.C. 164(b)) is amended by adding at the end thereof the following new sentence: "Any such prohibitions by any state or territory shall apply to any property of the United States located within such state or territory.""

AMENDMENT NO. 1882

At the appropriate place, insert the following:

SEC. . Section 439 of the Labor-Management Reporting and Disclosure Act (29 U.S.C. 439) is amended—

(1) by striking out "one year" in subsection (a), and by adding in lieu thereof "five years";

(2) by striking out "one year" in subsection (b), and by adding in lieu thereof "five years";

(3) by striking out "one year" in subsection (c), and by adding in lieu thereof "five years."

AMENDMENT NO. 1883

At the appropriate place, insert the following:

"SEC. . Section 530 of the Labor-Management Reporting and Disclosure Act (29 U.S.C. 530) is amended—

(1) by striking out "for the purpose of interfering with or preventing the exercise of" in the first sentence of the section:

(2) by striking out "$1,000" and "one year" in the second sentence of the section;

(3) by adding after the words "shall be fined not more than" in the second sentence the following: "10,000"; and

(4) by adding after the words "or imprisoned for not more than" in the second sentence the following "five years."

AMENDMENT NO. 1884

At the appropriate place, insert the following new section:

"SEC. . Section 2(5) of the National Labor Relations Act (29 U.S.C. 152(5)) is amended by adding the following new sentence to the end thereof: "For the purposes of this Act, the term "labor organization" shall include all affiliates of a labor organization and the actions of any such affiliate shall be deemed binding on any parent labor organization or other affiliates.""

AMENDMENT NO. 1885

At the appropriate place, insert the following:

"SEC. . Section 411(a) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 411 (a)) is amended by adding at the end thereof the following new paragraph:

"(6) EMPLOYMENT REFERRAL.—In the case of a labor organization that refers applicants to an employer for employment with such employer, such organization may not make such referrals in a manner that is inconsistent with constitution and bylaws of such organization.""

AMENDMENT NO. 1886

At the appropriate place, insert the following:

"SEC. . Section 2(13) (29 U.S.C. 152 (13)) of the National Labor Relations Act is amended by adding the following new sentence at the end thereof: "Any member of a labor organization shall be deemed to be an agent of said labor organization, and such member's actions shall be binding on said labor organization without regard to whether said action was authorized or subsequently ratified.""

AMENDMENT NO. 1887

At the appropriate place, insert the following new section:

"SEC. . (a) Section 2(5) of the National Labor Relations Act (29 U.S.C. 152(5)) is amended by adding to the end thereof the following new sentence: "For purposes of this Act the term "labor organization" shall include all affiliates of a labor organization and the actions of any one affiliate shall be deemed binding on any parent and other affiliates."

(b) Paragraph 1(B) of section 504(b) of title 5, United States Code, is amended—

(1) by striking out the semicolon at the end thereof and inserting in lieu thereof a colon; and

(2) by adding to the end thereof the following new proviso:

"*Provided*, That the net worth of a labor organization shall be determined with reference to section 2(5) of the National Labor Relations Act (29 U.S.C. 152(5)).

(c) Paragraph B of section 2412(d)(2) of title 28, United States Code, is amended—

(1) by striking out the semicolon at the end thereof and inserting in lieu thereof a colon; and

(2) by adding to the end thereof the following new proviso:

"*Provided*, That the net worth of a labor organization shall be determined with reference to section 2(5) of the National Labor Relations Act (29 U.S.C. 152(5))."

AMENDMENT NO. 1888

At the appropriate place, insert the following new section:

"SEC. . Section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) is amended—

"(1) by inserting after the colon following the first occurrence of the word "concession" the following new proviso: "*Provided*, That it shall be an unfair labor practice for a labor organization to make a proposal which directly or indirectly affects employees outside the bargaining unit represented by such labor organization."

"(2) by striking out the word "*Provided*" and inserting in lieu thereof the phrase "*Provided further*."

AMENDMENT NO. 1889

At the appropriate place, insert the following new section:

"SEC. . Section 19 of the National Labor Relations Act (29 U.S.C. 169) is amended by inserting after the phrase "objections to joining or financially supporting labor organizations" the phrase, "or any employee who has a strongly held moral or personal conviction against joining or financially supporting labor organizations."

AMENDMENT NO. 1890

At the appropriate place, insert the following new section:

"SEC. . Section 302(c) of the Labor Management Relations Act (29 U.S.C. 186(c)) is amended by striking out the semicolon in clause (4) and inserting in lieu thereof a colon; and by inserting the following new proviso at the end thereof:

"*Provided, however*, That nothing contained herein shall be construed as permitting such deductions in any state or territory in which such deductions are prohibited by State or Territorial law.".

AMENDMENT NO. 1891

At the appropriate place, insert the following new section:

"SEC. . Section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) is amended—

(1) by inserting after the phrase "but such obligation does not compel either party to agree to a proposal or require the making of a concession;" the following new proviso:

"*Provided*, That nothing in this subsection shall require an employer to negotiate with a representative of a labor organization who has been convicted of violating the criminal laws of the United States, or any state, district or territory, or who has committed an act of violence against the employers, against any of its employees or agents, or against its property;" and

(2) by inserting "*further*" after "*Provided*" preceding the phrase "That where there is in effect a collective-bargaining contract * * *"

AMENDMENT NO. 1892

At the appropriate place, insert the following new section:

"SEC. . (a) Section 8(b)(1) of the National Labor Relations Act (29 U.S.C. §158(b)(1)) is amended by inserting after the phrase "to restrain or coerce" the following new clause: "in any manner, including but not limited to, by acts of violence, threats of violence, or acts of intimidation, either at the place of employment or otherwise,"".

AMENDMENT NO. 1893

At the appropriate place, insert the following new section:

"SEC. . (a) Section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) is amended by inserting the following new paragraph at the end thereof:

"No employer shall be compelled to bargain with, and it shall not be unlawful under this Act for an employer to refuse to bargain with, any individual prohibited from representing a labor organization as provided in Section 504(a) of the labor-Management Reporting and Disclosure Act (29 U.S.C. 504(a)).

(b) Section 504(a) of the Labor-Management Reporting and Disclosure Act (29 U.S.C. 504(a)) is amended by inserting after the clause, "assault which inflicts grievous bodily injury," the following new clauses: "assault or threat of assault upon any employee, serious strike misconduct,""

AMENDMENT NO. 1894

On page 5, line 15, delete the ".", insert a ";", and add the following:

"Subsections (i) and (ii) shall not apply in any case in which the labor organization involved in the labor dispute concerned engages in or encourages its members to engage in violence during the dispute."

AMENDMENT NO. 1895

On page 6, line 21, delete the ".", insert a ";", and add the following:

"Subsections (1) and (2) shall not apply in any case in which the labor organization involved in the labor dispute concerned engages in or encourages its members to engage in violence during the dispute."

AMENDMENT NO. 1896

On page 6, following section 2, add the following new section:

SEC. . "The provisions in section 1 and section 2 shall not apply in any case in which the labor organization involved in the labor dispute concerned engages in or encourages its members to engage in violence during the dispute."

AMENDMENT NO. 1897

On page 5, line 15, delete the ".", insert a ";", and add the following:

"Subsections (i) and (ii) shall not apply in any case in which a strike or imminent strike poses a threat to the public health or safety."

AMENDMENT NO. 1898

On page 6, line 21, delete the ".", insert a ";", and add the following:

"Subsections (1) and (2) shall not apply in any case in which a strike or imminent strike poses a threat to the public health or safety."

AMENDMENT NO. 1899

On page 6, following section 2, add the following new section:

SEC. . "The provisions in section 1 and section 2 shall not apply in any case in which a strike or imminent strike poses a threat to the public health or safety."

AMENDMENT NO. 1900

On page 5, line 15, delete the ".", insert a ";", and add the following:

"If, as a result of the prohibitions contained in subsections (i) and (ii), a strike or imminent strike poses a threat to public health or safety, the employer involved in the strike or General Counsel of the Board, acting on behalf of the Board, may petition any United States district court within any district where the strike has or will occur for appropriate injunctive relief. Upon the filing of any such petition, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law."

AMENDMENT NO. 1901

On page 6, line 21, delete the ".", insert a ";", and add the following:

"If, as a result of the prohibitions contained in subsections (1) and (2), a strike or imminent strike poses a threat to public health or safety, the employer involved in the strike or General Counsel of the Board, acting on behalf of the Board, may petition any United States district court within any district where the strike has or will occur for appropriate injunctive relief. Upon the filing of any such petition, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law."

AMENDMENT NO. 1902

On page 6, following section 2, add the following new section:

SEC. . "If, as a result of prohibitions contained in section 1 and section 2, a strike or imminent strike poses a threat to public health or safety, the employer involved in the strike or General Counsel of the Board, acting on behalf of the Board, may petition any United States district court within any district where the strike has or will occur for appropriate injunctive relief. Upon the filing of any such petition, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law."

AMENDMENT NO. 1903

At the appropriate place, insert the following new section:

"SEC. . That (a) Paragraph (2) of subsection 1951 of title 18, United States Code, is amended to read as follows:

"(2) The term 'extortion' means the obtaining of property from another, with his or her consent, induced by use of actual or threatened force, violence or fear thereof, or wrongful use of fear not involving force or violence, or under color of official right."

(b): Subsection (c) of such section is amended to read as follows:

"(c) Nothing in this section shall be construed as indicating an intent on the part of the Congress—

"(1) to repeal, modify, or affect section 17 of title 15, the Act of March 23, 1932, popularly known as the Norris-La Guardia Act (47 Stat. 70: 29 U.S.C. 52, 101, 115, 151–166), or the Railway Labor Act (45 U.S.C. 151–188);

"(2) to exclude Federal jurisdiction over the offenses defined in this section on the ground that the conduct is also a violation of State or local law, or the conduct, if it involves force, violence or fear of force or violence, takes place in the course of a legitimate business or labor dispute or in pursuit of a legitimate business or labor objective; or

"(3) to chill legitimate labor activity by authorizing Federal prosecution for offenses occurring during a labor dispute which do not involve extortion. This intent would preclude prosecution, under this section, of conduct which is incidental to peaceful picketing in the course of a legitimate labor dispute, as defined in section 2(9) of the National Labor Relations Act (29 U.S.C. 150(9)), and consists solely of minor bodily injury, or minor damage to property, or a threat of such minor injury or damage, and is not intended to obtain property. Such excluded offenses shall continue to be subject to prosecution by State and local authorities having jurisdiction over them.

(c) Section 1951 is amended by adding at the end thereof the following:

"(d) It is a bar to a prosecution under this section that the conduct of the defendant—

"(1) was incidental to peaceful picketing in the course of a legitimate labor dispute, as defined in section 2(9) of the National Labor Relations Act, as amended (29 U.S.C. 152(9));

"(2) consisted solely of minor bodily injury, or minor damage to property not exceeding a value of $2,500, or a threat of such minor injury or damage; and

"(3) was not intended to obtain property."

AMENDMENT NO. 1904

At the appropriate place, insert the following new section:

"SEC. . Section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) is amended by inserting after the colon at the end of paragraph (4) the following new provisions: "*Provided further*, That where there is in effect a collective bargaining contract covering employees in an industry affecting commerce, the duty to bargain collectively shall also mean that such employees shall not engage in a strike or other concerted refusal to perform work for any reason whatsoever during the term of such contract regardless of whether such strike or other concerted refusal to perform work is actually authorized by the representative of such employees subject to the provisions of Section 9(a): *And, Provided further*, That where such strike or other concerted refusal to perform work occurs, the duty to bargain collectively shall also mean that the representative of such employees subject to the provisions of Section 9(a) shall take all steps reasonably necessary to end such strike or other concerted refusal to perform work.'"

AMENDMENT NO. 1905

At the appropriate place, insert the following:

"SEC. . Section 2(13) of the National Labor Relations Act (29 U.S.C. 152(13)) is amended by inserting at the end thereof the following new sentence:

"Any person engaged in a strike or other concerted refusal to perform work, or any other concerted activity, shall be considered an "agent" of all other persons with whom such action was taken, and as "agent" of the labor organization, if any, of which any such person is a member."

AMENDMENT NO. 1906

At the appropriate place, insert the following:

"SEC. . Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by inserting after the phrase, "responsible for the discrimination suffered by him," the following new proviso:

"*Provided further*, That the board may order the restitution of money damages arising out of and caused by a strike or other means of coercion or force which the Board shall determine to be an unfair labor practice under Section 8(b) of this Act (29 U.S.C. 158(b)), but nothing in this proviso shall be interpreted to preclude an injured party from pursuing any other remedy available at law, in equity, or otherwise.'"

AMENDMENT NO. 1907

At the appropriate place, insert the following:

"SEC. . Section 8(b) of the National Labor Relations Act (29 U.S.C. 158(b)) is amended—

(1) by striking out the "and" at the end of subsection (6) of such section; and

(2) by striking out the period at the end of subsection (7) of such section and inserting in lieu thereof "; and"; and

(3) by adding the following new subsection at the end thereof:

"(8) to engage in a strike, or slowdown, or other refusal to work for any reason during the term of any collective bargaining agreement to which the labor organization is a signatory when such agreement contains a provision prohibiting strikes. For purposes of this subsection any such strike, slowdown, or refusal to work by any member of a labor organization shall be deemed an act of said labor organization.'"

AMENDMENT NO. 1908

At the appropriate place, insert the following:

"SEC. . Section 14(c)(1) of the National Labor Relations Act (29 U.S.C. 164(c)) is amended—

(1) by striking out the proviso thereto; and

(2) by adding after the colon the following new proviso:

"*Provided*, That the Board shall assert jurisdiction over any labor dispute involving any non retail enterprise which has an outflow or inflow across state lines of at least $1,000,000 per annum, whether such outflow or inflow is regarded as direct or indirect, and involving any retail enterprise which has a gross volume of business of at least $10,000,000 per annum. No later than November 1, 1992, and each year thereafter, the board shall adjust and publish in the Federal Register such standards to reflect changes in the Consumer Price Index (all items-United States city average) published by the Bureau of Labor Statistics."

AMENDMENT NO. 1909

At the appropriate place, insert the following:

"SEC. . Section 2(2) of the National Labor Relations Act (29 U.S.C. 152(2)) is amended by inserting after the phrase, "or any State or political subdivision thereof" the following new phrase: "any employer which shares an intimate relationship or connection with the United States or any State or political subdivision thereof."

AMENDMENT NO. 1910

At the appropriate place, insert the following:

"SEC. . Section 14(c)(1) of the National Labor Relations Act (29 U.S.C. 164(c)(1)) is amended—

(1) by striking the period and inserting in lieu thereof a comma; and

(2) by adding after the following at the end thereof: "adjusted on August 1, 1960, and each year thereafter, to reflect changes in the Consumer Price Index (all items-United States city average) published by the Bureau of Labor Statistics for the one-year period ending the preceding July 31. No later than November 1, 1992, and each year thereafter, the Board shall publish such standards, as adjusted in accordance with the preceding sentence, in the Federal Register."

AMENDMENT NO. 1911

At the appropriate place, insert the following:

"SEC. . Section 303(a) of the Labor Management Relations Act (29 U.S.C. 187(a)) is amended by striking out "section 8(b)(4)" and inserting in lieu thereof "Section 8(b)".

AMENDMENT NO. 1912

At the appropriate place, insert the following:

"SEC. . Section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)) is amended by striking out "a unit appropriate" in the phrase "in a unit appropriate for such purposes" and inserting in lieu thereof "the most appropriate unit".

AMENDMENT NO. 1913

At the appropriate place, insert the following:

SEC. . Section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) is amended by adding the following new paragraph at the end thereof:

"Notwithstanding any of the foregoing, no employer shall have a duty to bargain collectively with any labor organization which has been determined, in whole or in part, to be an enterprise operated by a pattern of racketeering within the meaning of 18 U.S.C. 1961 et seq. by a court of the United States in any civil or criminal action for a period of ten years from the date of such determination."

AMENDMENT NO. 1914

At the appropriate place, insert the following:

"SEC. . Section 301(a) of the Labor Management Relations Act (29 U.S.C. 185(a)) is amended by adding at the end thereof the following new sentence:

"This section shall not apply to, and a district court shall not have subject matter jurisdiction over, a nonsignatory to a collective bargaining agreement, where no rights or duties of the non-signatory party are stated in the terms and conditions of the contract."

AMENDMENT NO. 1915

At the appropriate place, insert the following:

"SEC. . Section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) is amended—

(1) by inserting after the colon following the word "concession" the following new proviso:

"*Provided*, That this Section shall not require any employer to bargain collectively with respect to any decision which affects the scope, direction, or nature of its business, and which is not prohibited by other provisions of this Act, to discontinue, contract out, relocate, sell, or otherwise change, modify, restructure, or dispose of its business, plant, equipment, or operations, or any part thereof, except that, on request, the employer (unless the collective bargaining agreement between the parties defines their duties in such circumstances) without having to defer the decision or any action pursuant thereto, shall after making such decision meet and bargain with the representative of any affected employees concerning the effects, if any, of such action upon such employees;"; and

(2) by inserting before the comma preceding the phrase "That where there is in effect a collective-bargaining contract" the word "further."

AMENDMENT NO. 1916

On page 5, at the end of line fifteen, delete the ". ", insert a ";", and add the following:

"(iii) except that the prohibitions contained in subsections (i) and (ii) will not apply unless a simple majority of the employees in the bargaining unit or bargaining units involved in such labor dispute have voted by secret ballot to conduct such labor dispute, and the election is conducted under the supervision of the National Labor Relations Board."

AMENDMENT NO. 1917

On page 6, at the end of line 21, delete the ". ", insert a ";" and add the following:

"(3) except that the prohibitions contained in subsections (1) and (2) will not apply unless a simple majority of the employees in the bargaining unit or bargaining units involved in such labor dispute have voted by secret ballot to conduct such labor dispute, and the election is conducted under the supervision of the National Labor Relations Board."

AMENDMENT NO. 1918

On page 6, following section 2, add the following new section:

SEC. . "The prohibitions contained in section 1 and section 2 will not apply unless a

simple majority of the employees in the bargaining unit or bargaining units involved in such labor dispute have voted by secret ballot to conduct such labor dispute, and the election is conducted under the supervision of the National Labor Relations Board."

AMENDMENT NO. 1919

On page 5, at the end of line 15, strike the close quotation marks and the period following and insert the following:

"The prohibitions contained in subsections (i) and (ii) shall apply only if a referendum was conducted by secret ballot with a simple majority of the employees in the bargaining unit or bargaining units affected voting to conduct an economic strike."

AMENDMENT NO. 1920

On page 6, at the end of line 21, strike the close quotation marks and the period following and insert the following:

"The prohibitions contained in subsections (1) and (2) shall apply only if a referendum was conducted by secret ballot with a simple majority of the employees in the bargaining unit or bargaining units affected voting to conduct an economic strike."

AMENDMENT NO. 1921

On page 6, following section 2, add the following new section:

SEC. . "The prohibitions contained in section 1 and section 2 shall apply only if a referendum was conducted by secret ballot with a simple majority of the employees in the bargaining unit or bargaining units affected voting to conduct an economic strike."

AMENDMENT NO. 1922

At the appropriate place, insert the following:

SEC. . Section 10(c) of the National Labor Relations Act (29 U.S.C. section 160(c)) is amended by inserting after the following new proviso: "*Provided further*, That no order of the Board shall issue requiring any employer to bargain with any labor organization unless such labor organization has been certified as the exclusive representative of his employees following a secret ballot election conducted pursuant to section 9 of this Act (29 U.S.C. section 159)."

AMENDMENT NO. 1923

At the appropriate place, insert the following:

"SEC. . Section 10(b) of the National Labor Relations Act (29 U.S.C. 160(b)) is amended—

(1) by striking out the period at the end of the first sentence and inserting in lieu thereof a colon; and

(2) by adding the following new proviso at the end thereof: "*Provided further*, That no complaint shall issue based upon any unfair labor practice not specifically alleged in timely charge".

AMENDMENT NO. 1924

At the appropriate place, insert the following:

"SEC. . Section 10(b) of the National Labor Relations Act (29 U.S.C. 160(b)) is amended—

(1) by striking out the period at the end of the second sentence and inserting in lieu thereof a colon; and

(2) by inserting the following new proviso after the colon:

"*Provided*, That no such amendment shall relate back to the original filing of the complaint, for the purposes of this subsection, unless the claim asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading."

AMENDMENT NO. 1925

At the appropriate place, insert the following:

SEC. . Section 9(c) of the National Labor Relations Act (29 U.S.C. 159(c) is amended by adding the following paragraph at the end thereof:

(6) "Notwithstanding any of the foregoing, the Board shall not certify as a representative of employees under this Act any labor organization which has been determined to be, in whole or in part, an enterprise operated by a pattern of racketeering within the meaning of 18 U.S.C. 1961 et seq. by a court of the United States in any civil or criminal action for a period of ten years from the date of such determination."

AMENDMENT NO. 1926

At the appropriate place, insert the following:

"SEC. . Section 3(d) of the National Labor Relations Act (29 U.S.C. 153(d)) is amended—

(1) by striking out the period at the end of the third sentence and inserting in lieu thereof a colon; and

(2) by adding the following new proviso: "*Provided*, That where the General Counsel shall delegate this authority to issue complaints under Section 10, the General Counsel shall provide an appeal procedure with final review personally by the General Counsel of any decision to issue such complaints."

AMENDMENT NO. 1927

At the appropriate place, insert the following:

"It is the sense of the Congress that the National Labor Relations Board should give first priority and use the utmost speed to process unfair labor practice cases that involve the reinstatement of strikers who have been permanently replaced."

AMENDMENT NO. 1928

At the appropriate place, insert the following:

"SEC. . Section 10(k) of the National Labor Relations Act (29 U.S.C. 160(K)) is amended by adding the following new sentence at the end thereof:

"At a hearing pursuant to this subsection, the burden shall be upon the labor organization challenging the particular work assignment to demonstrate its entitlement to said work assignment by clear and convincing evidence."

AMENDMENT NO. 1929

At the appropriate place, insert the following:

"SEC. . Section 14 of the National Labor Relations Act (29 U.S.C. 164) is amended by adding the following new subsection: "(d) Nothing herein shall require the presence of a union representative, or other individual, at any interview, conducted by an employer with any employee."

AMENDMENT NO. 1930

At the appropriate place, insert the following:

"SEC. . Section 8(b)(6) of the National Labor Relations Act (29 U.S.C. 158(b)(6)) is amended by inserting after the second occurrence of the word "performed" and before the semicolon, a comma and the following new clause: "or for services for which the employer has no need or does not desire, or for services which are of no bona fide economic value to the employer"."

AMENDMENT NO. 1931

At the appropriate place, insert the following new section:

SEC. 3. PREVENTION OF DISCRIMINATION AGAINST EMPLOYEES FOR FAILING TO PAY FOR THE POLITICAL ACTIVITIES OF A LABOR ORGANIZATION.

"An employee cannot be obligated to pay, through union dues or any other mandatory payment to a labor organization, for the political activities of the labor organization, including, but not limited to, the maintenance and operation of, or solicitation of contributions to, a political committee, political communications to members, and voter registration and get-out-the-vote campaigns."

AMENDMENT NO. 1932

At the appropriate place, insert the following new section:

SEC. 3. PREVENTION OF DISCRIMINATION AGAINST EMPLOYEES FOR FAILING TO PAY FOR THE POLITICAL ACTIVITIES OF A LABOR ORGANIZATION.

"No employee may be required to join any labor organization, but if a collective bargaining agreement covering an employee purports to require membership or payment of dues or other fees to a labor organization as a condition of employment, the employee may elect instead to pay an agency fee to the labor organization.

"The amount of the agency fee shall be limited to the employee's pro rata share of the cost of the labor organization's executive representation services to the employee's collective bargaining unit, including collective bargaining, contract administration, and grievance adjustment."

AMENDMENT NO. 1933

On page 5, line 15, delete the ".", insert a ";", and add the following:

"The prohibitions contained in subsections (i) and (ii) shall not apply if the employer, acting in good faith, can demonstrate it had a reasonable basis to believe that it would suffer significant economic injury as a result of such prohibition."

AMENDMENT NO. 1934

On page 6, line 21, delete the ".", insert a ";", and add the following:

"The prohibitions contained in subsections (1) and (2) shall not apply if the employer, acting in good faith, can demonstrate it had a reasonable basis to believe that it would suffer significant economic injury as a result of such prohibition."

AMENDMENT NO. 1935

On page 6, following section 2, add the following new section:

SEC. . "The prohibition contained in section 1 and section 2 shall not apply if the employer, acting in good faith, can demonstrate it had a reasonable basis to believe that it would suffer significant economic injury as a result of such prohibition."

AMENDMENT NO. 1936

On page 5, line 15, delete the ".", insert a ";", and add the following:

"The prohibitions contained in subsections (i) and (ii) shall not apply if such prohibition would cause an employer to suffer a major contract cancellation, to incur a substantial

penalty due to failure to meet a contract deadline, to commit a breach of contract, or otherwise to sustain a significant economic injury due to failure to fulfill a contractual obligation undertaken prior to the labor dispute."

AMENDMENT NO. 1937

On page 6, line 21, delete the ".", insert a ";", and add the following:

"The prohibitions contained in subsections (1) and (2) shall not apply if such prohibition would cause an employer to suffer a major contract cancellation, to incur a substantial penalty due to failure to meet a contract deadline, to commit a breach of contract, or otherwise to sustain a significant economic injury due to failure to fulfill a contractual obligation undertaken prior to the labor dispute."

AMENDMENT NO. 1938

On page 6, following section 2, add the following new section:

SEC. . "The prohibitions contained in section 1 and section 2 shall not apply if such prohibition would cause an employer to suffer a major contract cancellation, to incur a substantial penalty due to failure to meet a contract deadline, to commit a breach of contract, or otherwise sustain a significant economic injury due to failure to fulfill a contractual obligation undertaken prior to the labor dispute."

AMENDMENT NO. 1939

On page 5, line 15, delete the ".", insert a ";", and add the following:

"If, as a result of the prohibitions contained in subsections (i) and (ii), a strike or imminent strike would result in substantial and grievous economic injury to an employer's operations, resulting in a loss of income for other employees of such employer who are not engaged in bargaining unit work, the employer involved in the strike or General Counsel of the Board, acting on behalf of the Board, may petition any United States district court within any district where the strike has or will occur for appropriate injunctive relief. Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law."

AMENDMENT NO. 1940

On page 6, line 21, delete the ".", insert a ";", and add the following:

"If, as a result of the prohibitions contained in subsections (1) and (2), a strike or imminent strike would result in substantial and grievous economic injury to an employer's operations, resulting in a loss of income for other employees of such employer who are not engaged in bargaining unit work, the employer involved in the strike or General Counsel of the Board, acting on behalf of the Board, may petition any United States district court within any district where the strike has or will occur for appropriate injunctive relief. Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law."

AMENDMENT NO. 1941

On page 6, following section 2, add the following new sections:

SEC. 27. "If, as a result of the prohibitions contained in section 1 and section 2, a strike or imminent strike would result in substantial and grievous economic injury to an employer's operations, resulting in a loss of income for other employees of such employer who are not engaged in bargaining unit work, the employer involved in the strike or General Counsel of the Board, acting on behalf of the Board, may petition any United States district court within any district where the strike has or will occur for appropriate such injunctive relief. Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law."

AMENDMENT NO. 1942

On page 5, line 15, delete the ".", insert a ";", and add the following:

"Subsections (i) and (ii) shall not apply in any case where a strike or imminent strike would result in substantial and grievous economic injury to an employer's operations, resulting in a loss of income for other employees of such employer who are not engaged in bargaining unit work."

AMENDMENT NO. 1943

On page 6, line 21, delete the ".", insert a ";", and add the following:

"Subsections (1) and (2) shall not apply in any case where a strike or imminent strike would result in substantial and grievous economic injury to an employer's operations, resulting in a loss of income for other employees of such employer who are not engaged in bargaining unit work."

AMENDMENT NO. 1944

On page 6, following section 2, add the following new section:

SEC. . "Section 1 and section 2 shall not apply in any case where a strike or imminent strike would result in substantial and grievous economic injury to an employer's operations, resulting in a low of income for other employees of such employer who are not engaged in bargaining unit work."

AMENDMENT NO. 1945

At the appropriate place, insert the following new section:

SEC. . DISCRIMINATORY ACTIVITY AS BASIS FOR OBJECTION TO CERTIFICATION.

Section 10 of the National Labor Relations Act (29 U.S.C. 160) is amended by adding at the end thereof the following new subsection:

"(n) Notwithstanding any other provision of law, an employer or employee may object to the certification of an organization as the exclusive bargaining representative for purposes of collective bargaining on the basis that such organization has engaged, or is engaging, in discrimination based on race, color, religion, gender or national origin. Such discriminatory activity may also be raised as a defense by an employer for the employer's refusal to bargain collectively with a labor organization.".

AMENDMENT NO. 1946

At the appropriate place, insert the following new section:

SEC. . DEMOCRACY WITHIN LABOR UNIONS.

Section 401(E) of the Labor-Management Relations Act of 1959 (29 U.S.C. 481(e)) is amended by adding at the end thereof the following new sentence: "An organization may not prohibit a member from holding an office within such organization based on the fact that such member has applied for a supervisory or managerial position with an employer.".

AMENDMENT NO. 1947

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Rights Act of 1992".

SEC. 2. VIOLENCE AS AN UNFAIR LABOR PRACTICE.

(a) EMPLOYER UNFAIR LABOR PRACTICE.—Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end the following new paragraph:

"(6) to encourage, incited, or engage in acts or threats of violence, intimidation or harassment against employees as a means of achieving the collective bargaining objectives of the employer.".

(b) LABOR ORGANIZATION UNFAIR LABOR PRACTICE.—Section 8(b) of such Act (29 U.S.C. 158(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (7) the following new paragraph:

"(8) to encourage, incite, or engage in acts or threats of violence, intimidation or harassment against employees as a means of achieving the collective bargaining or organizational objectives of the labor organization.".

SEC. 3. EXPANSION OF BACK PAY REMEDIES:

Section 10(c) of the National Labor Relations Act (42 U.S.C. 160(c)) is amended by inserting after the first proviso the following new proviso the following: "*And provided further*, That when an employer is found to have engaged in conduct violating section 8(a)(6) or when a labor organization is found to have engaged in conduct violating 8(b)(8), that has resulted in a loss of pay by an employee or employees, backpay shall be required to be paid by the employer in cases of violations of 8(a)(6) and by labor organizations in cases of violations of 8(b)(8):".

AMENDMENT NO. 1948

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that in the case of a labor dispute to which this paragraph applies, if the employer would suffer substantial economic injury to the employer's operations, the General Counsel, acting on behalf of the Board, shall petition any United States district court for any district in which the strike or other concerted activity has or will occur for appropriate injunctive relief, and upon the filing of any such petition, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law. The injunctive relief permitted under this paragraph is in addition to and not in lieu of any other rights that persons may otherwise have under Federal or State law.".

AMENDMENT NO. 1949

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that this paragraph shall not apply if the labor organization involved has, prior to the commencement of the labor dispute,

threatened to prohibit an employer from continuing to operate during a labor dispute or has engaged in conduct, other than authorizing striking employees to withhold their services, that is aimed at interfering with an employer's ability to continue to operate during the labor dispute.".

AMENDMENT NO. 1950

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that if non-striking employees of an employer to which this paragraph applies, including those not represented by the labor organization involved, suffer a loss of pay or benefits as a result of the impact of the labor dispute on the ability of the employer to conduct normal business operations, the labor organization shall be liable for such lost pay and benefits.".

AMENDMENT NO. 1951

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that this paragraph shall only apply to economic strikes where a majority of the employees that make up the bargaining unit involved have, immediately prior to the strike, voted in a secret ballot election that is conducted by the National Labor Relations Board to reject the employer's last contract offer and to engage in a strike against the employer.".

AMENDMENT NO. 1952

At the appropriate place, insert the following new section:

SEC. . LIABILITY FOR BACKPAY.

Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by adding at the end thereof the following new sentence: "The Board may order a labor organization found to have violated section 8(b)(1)(A) to reimburse all employees for wages that were lost or diminished as a result of the labor organization's unfair labor practices.".

AMENDMENT NO. 1953

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that an employee engaged in a strike or work stoppage shall not be entitled to or eligible for reinstatement under this paragraph if they have threatened, harassed or intimidated nonstriking employees during the labor dispute.".

AMENDMENT NO. 1954

At the appropriate place, insert the following new section:

SEC. . ENHANCED COMPETITIVENESS.

Section 610 of the Labor-Management Reporting and Disclosure Act (29 U.S.C. 530) is amended—

(1) by striking out "for the purpose of interfering with or preventing the exercise of" in the first sentence;

(2) by striking out "$1,000" and inserting in lieu thereof "$10,000"; and

(3) by striking out "one year" and inserting in lieu thereof "five years".

AMENDMENT NO. 1955

At the appropriate place, insert the following new section:

SEC. . CONDUCT NOT PROTECTED.

Section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) is amended—

(1) by inserting before "*Provided,*" the following new proviso: "*Provided,* That it shall be an unfair labor practice for a labor organization or any of its members to engage in any activity not specifically protected by this title in support of a collective bargaining demand:"; and

(2) by striking out "*Provided,* That where" and inserting in lieu thereof "*Provided further,* That where".

AMENDMENT NO. 1956

At the appropriate place, insert the following new section:

SEC. . CERTAIN VIOLATIONS AND PENALTIES.

Section 209 of the Labor-Management Reporting and Disclosure Act (29 U.S.C. 439) is amended—

(1) in subsection (a), by striking out "one year" and inserting in lieu thereof "five years";

(2) in subsection (b), by striking out "one year" and inserting in lieu thereof "five years"; and

(3) in subsection (c), by striking out "one year" and inserting in lieu thereof "five years".

AMENDMENT NO. 1957

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that this paragraph shall not apply to—

"(I) employers engaged in delivery of health care services (such as hospitals and nursing homes);

"(II) employers who do not have the capacity to stockpile the goods they manufacture;

"(III) employers whose cost of training new employees exceed $5,000; and

"(IV) employers engaged in a strike in which the final collective bargaining contract offer made by the labor organization prior to the strike exceeds the previous wage and benefit level of unit employees by 10 percent or more.".

AMENDMENT NO. 1958

At the appropriate place, insert the following new section:

SEC. . DUTY OF FAIR REPRESENTATION.

Section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)) is amended—

(1) by inseting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) It shall be the duty of such exclusive representative to represent fairly all persons for which it serves as the exclusive representative bargaining agreement: *Provided,* That in making determinations regarding whether the exclusive representative has fulfilled its duty of fair representation, the Board shall consider all relevant circumstances, including:

"(A) whether all covered employees had a voice in selecting the exclusive collective bargaining representative;

"(B) whether all covered employees had a voice in negotiating the collective bargaining agreement;

"(C) whether and to what extent, any group of employees that were not included within the bargaining unit when the collective bargaining unit was negotiated has interests with respect to job assignments, job referrals, handling of grievances, or any other terms of conditions of employment; and

"(D) whether any employees who were not represented by the exclusive collective bargaining representative during the negotiation of the collective bargaining agreement have been given less favorable treatment by such representive with respect to job assignments, job referrals, handling of grievances, or any other terms or conditions of employment.

"An Office of Fair Representation shall be established within the Office of General Counsel whose purpose shall be to assist the General Counsel in the investigation of charges made by employees alleging violations of the duty of fair representation under this subsection.".

AMENDMENT NO. 1959

At the appropriate place, insert the following new section:

SEC. . OBLIGATION TO BARGAIN COLLECTIVELY.

Section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) is amended—

(1) by inserting striking out "*Provided*" and inserting in lieu thereof the following: "*Provided,* That nothing in this subsection shall require an employer to negotiate with a representative of a labor organization who has been convicted of violating the criminal laws of the United States, or any State, district or territory, or who has committed an act of violence against the employers, against any of its employees or agents, or against its property *Provided further*".

AMENDMENT NO. 1960

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following: ";

"except that this paragraph shall not apply if the labor organization involved has been convicted of violating any criminal laws of the United States, or any State, district or territory, or has committed, within the prior six-month period, an act of violence or threatened to commit an act of violence against the employer, against any of its agents or employees, or against its property.".

AMENDMENT NO. 1961

At the appropriate place, insert the following new section:

SEC. . CONSTRUCTION.

Section 14 of the National Labor Relations Act (29 U.S.C. 164) is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this Act shall be construed to permit the Board to conclude that an employee, while in possession of a firearm or other deadly weapon, is engaged in activity protected under this Act, unless such person is a guard under section 9(b)(3).".

AMENDMENT NO. 1962

At the appropriate place, insert the following new section:

SEC. . ANTIDISCRIMINATION

(a) IN GENERAL.—Section 8(a)(3) of the National Labor Relations Act (29 U.S.C. 158(a)(3)) is amended by inserting before the semicolon at the end thereof the following: "*Provided further,* That nothing in this subsection shall permit any employer who has contracts with an agency of the United States of America for the furnishing of supplies or services, or for the use of real or personal property, including lease arrangements, to require membership in or financial support to any labor organization as a condition of employment.".

(b) BUILDING OR CONSTRUCTION EMPLOYEES.—Section 8(f) of the National Labor Re-

lations Act (29 U.S.C. 158(f) by inserting before the period the following: "*Provided further*, That nothing in this subsection shall permit any employer engaged in the construction industry who has contracts with an agency of the United States of America to require membership in or financial support to any labor organization as a condition of employment.".

AMENDMENT NO. 1963

At the appropriate place, insert the following new section:

SEC. . CONSTRUCTION.

Nothing in the amendments made by this Act shall be construed as prohibiting an employer from hiring a permanent replacement for an employee who—

(1) is engaged in a labor dispute that does not involve an unfair labor practice committed by the employer; and

(2) has voluntarily stopped working as a result of such labor dispute;

if the employer has been notified by at least five other qualified individuals what they would be willing to be hired under the terms of the employer's contract offer rejected by the labor organization and with the rights of permanent replacements to replace the employee.

AMENDMENT NO. 1964

At the appropriate place, insert the following new section:

SEC. . AGENTS OF LABOR ORGANIZATIONS.

Section 2(13) of the National Labor Relations Act (29 U.S.C. 152(13)) is amended by adding the following new sentence at the end thereof: "Any member of a labor organization shall be deemed to be an agent of that labor organization, and such member's actions shall be binding on the labor organization without regard to whether such action was authorized or subsequently ratified.".

AMENDMENT NO. 1965

At the appropriate place, insert the following new section:

SEC. . DEFINITION.

Section 2(5) of the National Labor Relations Act (29 U.S.C. 152(5)) is amended by adding the following new sentence at the end thereof: "For purposes of this Act, the term 'labor organization' shall include all affiliates of a labor organization and the actions of any such affiliate shall be deemed to be binding on any parent labor organization or other affiliates.".

AMENDMENT NO. 1966

At the appropriate place, insert the following new section:

SEC. . APPLICATION OF AMENDMENTS.

Notwithstanding the amendments made by this Act, with respect to a labor dispute that does not involve an unfair labor practice committed by the employer, the employer may hire a permanent replacement for any employee who, under the terms of the employer's last contract offer, would be paid in wages and benefits at a rate equal to or greater than $25,000 per year and who has voluntarily ceased working as a result of the labor dispute.".

AMENDMENT NO. 1967

At the appropriate place, insert the following new section:

SEC. . PROHIBITION AGAINST SECONDARY BOYCOTTS.

Section 2 of the Railway Labor Act (45 U.S.C. 152) is amended by adding at the end thereof the following new item:

"TWELFTH. PROHIBITION AGAINST SECONDARY BOYCOTTS.

"It shall be unlawful for a labor organization or its agents to force or require any person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other persons, or forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of it's employees unless such labor organization has been certified as the representative of such employees under the provisions of this Act: *Provided*, That nothing in this section shall be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing.".

AMENDMENT NO. 1968

At the appropriate place, insert the following new section:

SEC. . TERMINATION OF PROVISIONS.

The amendments made by this Act shall terminate if, in the 1-year period following the date of enactment of this Act, the number of labor disputes involving a cessation of work increases by at least 10 percent as compared to the number of labor disputes involving a cessation of work in 1992.

AMENDMENT NO. 1969

At the appropriate place, insert the following new section:

SEC. . TERMINATION OF PROVISIONS.

The amendments made by this Act shall terminate if, in the 1-year period following the date of enactment of this Act, at least one employer is forced to go out of business because of an inability to hire permanent replacements for employees who are engaged in a labor dispute that did not involve an unfair labor practice committed by the employer.

AMENDMENT NO. 1970

At the appropriate place, insert the following new section:

SEC. . PROHIBITION ON IMPOSITION OF FINES.

Section 8(b)(1) of the National Labor Relations Act (29 U.S.C. 158(b)(1)) is amended by striking out the first semicolon and inserting in lieu thereof the following: ": *Provided further*, That it shall be an unfair labor practice for a labor organization to threaten or impose any fine or other economic sanction against any person in the exercise of rights under this Act (including the right to refrain from any or all concerted activity or to invoke the processes of the Board);".

AMENDMENT NO. 1971

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that prior to engaging in any strike activity against an employer, the labor organization shall affirmatively notify each employee in the bargaining unit—

"(I) of the employee's right to refrain from engaging in such strike activity;

"(II) that the employee may not be subjected to restraint or coercion by the labor organization;

"(III) that members of the labor organization may be disciplined for failing to engage in such activity, if provisions for such discipline are provided in the written constitution and bylaws of the labor organization (the relevant contents of which shall be specified clearly and with particularity); and

"(IV) that the employee, if a member of the labor organization, may avoid said discipline by resigning from the labor organization utilizing procedures specified in the constitution and by-laws, or, if none, in accordance with law; and

the failure by the labor organization to provide such notice shall render the provisions of this paragraph ineffectual as to all employees deprived of notice. The labor organization shall bear the burden of demonstrating that effective notice was given.".

AMENDMENT NO. 1972

At the appropriate place, insert the following new section:

SEC. . EXTORTION WITH RESPECT TO LABOR DISPUTES.

Paragraph (2) of subsection (b) of section 1951 of title 18, United States Code, is amended to read as follows:

"(2)(A) The term 'extortion' means the obtaining of the property of another—

"(i) by threatening or placing another person in fear that any person will be subjected to bodily injury or kidnapping or that any property will be damaged; or

"(ii) under color of official right.

"(B) In a prosecution under subparagraph (A)(i) in which the threat or fear is based upon conduct by an agent or member of a labor organization consisting of an act of bodily injury to a person or damage to property, the pendency, at the time of such conduct, of a labor dispute, as defined in section 2(9) of the National Labor Relations Act (29 U.S.C. 152(9)), the outcome of which could result in the obtaining of employment benefits by the actor, does not constitute prima facie evidence, that property was obtained by such conduct.".

AMENDMENT NO. 1973

At the appropriate place, insert the following new section:

SEC. . SECRET BALLOT ELECTIONS.

Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by inserting after the first proviso the following new proviso: "*Provided further*, That no order of the Board shall issue requiring any employer to bargain with any labor organization unless such labor organization has been certified as the exclusive representative of its employees following a secret ballot election conducted pursuant to section 9 of this Act (29 U.S.C. 159):".

AMENDMENT NO. 1974

At the appropriate place, insert the following new section:

SEC. . RESTITUTION.

Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by inserting after the first proviso, the following new proviso: "*Provided further*, That the Board may order the restitution of money damages arising out of and caused by a strike or other means of coercion or force which the Board shall determine to be an unfair labor practice under section 8(b), but nothing in this proviso shall be interpreted to preclude an injured party from pursuing any other remedy available at law, in equity, or otherwise.".

AMENDMENT NO. 1975

At the appropriate place, insert the following new section:

SEC. . RESTITUTION.

Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by inserting after the first proviso, the following new proviso: "*Provided further*, That the

Board may order the restitution of money damages to individuals or entities which the Board shall determine were the victims of violent acts during an otherwise lawful strike, but nothing in this proviso shall be interpreted to preclude an injured party from pursuing any other remedy available at law, in equity, or otherwise:".

AMENDMENT NO. 1976

At the appropriate place, insert the following new section:

SEC. . SECRET BALLOT ELECTIONS FOR STRIKES.

Title III of the Labor-Management Relations Act, 1947 (29 U.S.C. 185 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 305. SECRET BALLOT ELECTIONS FOR STRIKES.

"(a) IN GENERAL.—It shall be unlawful for a labor organization or its agents to engage in a strike that has not been ratified or approved in a secret ballot election by a majority of employees in the appropriate unit who voted in such election.

"(b) INJUNCTIONS.—Any employee injured as the result of a violation of subsection (a) may petition a district court of the United States having jurisdiction of the parties to enjoin the violation.

"(c) JURISDICTION OF COURT.—The court shall have jurisdiction to enjoin a violation under this section. If the court determines that there has been a violation of subsection 9(a), it shall award monetary damages and other appropriate relief to the employees affected by such action including reasonable attorney's fees and costs to the party bringing such action.".

AMENDMENT NO. 1977

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE.

Notwithstanding any other provision of law, the amendments made by this Act shall become effective on the date on which the House of Representatives and the Senate adopt a Concurrent Resolution that provides employees of such House and Senate with same rights to organize, bargain collectively and strike as employees in the private sector have under the National Labor Relations Act, except that the appropriate United States district courts, rather than the National Labor Relations Board, shall be the applicable forum for adjudicating unfair labor practice cases and representation proceedings.".

AMENDMENT NO. 1978

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that this paragraph shall not apply if the concerted activities that are engaged in involve a labor organization that engages in discrimination on the basis of race, color, religion, gender or national origin.".

AMENDMENT NO. 1979

On page 4, line 11, strike "and inserting '; or' ".

On page 5, line 15, strike out the first period and insert in lieu thereof "; or"

At the appropriate place, insert the following new section:

SEC. . PROHIBITION OF VIOLENCE.

(a) VIOLENCE AS AN UNFAIR LABOR PRACTICE.—

(1) EMPLOYER UNFAIR LABOR PRACTICE.—Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end the following new paragraph:

"(7) to encourage, incite, or engage in acts or threats of violence, intimidation or harassment against employees as a means of achieving the collective bargaining objectives of the employer.".

(2) LABOR ORGANIZATION UNFAIR LABOR PRACTICE.—Section 8(b) of such Act (29 U.S.C. 158(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (7) the following new paragraph:

"(8) to encourage, incite, or engage in acts or threats of violence, intimidation or harassment against employees as a means of achieving the collective bargaining or organizational objectives of the labor organization.".

(b) EXPANSION OF BACK PAY REMEDIES.—Section 10(c) of the National Labor Relations Act (42 U.S.C. 160(c)) is amended by inserting after the first proviso the following new proviso the following: "*And provided further*, That when an employer is found to have engaged in conduct violating section 8(a)(6) or when a labor organization is found to have engaged in conduct violating 8(b)(8), that has resulted in a loss of pay by an employee or employees, backpay shall be required to be paid by the employer in cases of violations of 8(a)(6) and by labor organizations in cases of violations of 8(b)(8):".

AMENDMENT NO. 1980

On page 4, line 11, strike "and inserting '; or' ".

On page 4, line 13, strike out "paragraph" and insert in lieu thereof "paragraphs"

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof "; or

"(7) to call for or engage in an economic strike unless a simple majority of employees in the bargaining unit vote by secret ballot election conducted by the National Labor Relations Board to reject an employer's last contract offer and to conduct such strike.".

AMENDMENT NO. 1981

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. DISCRIMINATORY ACTIVITY AS BASIS FOR OBJECTION TO CERTIFICATION.

Section 10 of the National Labor Relations Act (29 U.S.C. 160) is amended by adding at the end thereof the following new subsection:

"(n) Notwithstanding any other provision of law, an employer or employee may object to the certification of an organization as the exclusive bargaining representative for purposes of collective bargaining on the basis that such organization has engaged, or is engaging, in discrimination based on race, color, religion, gender or national origin. Such discriminatory activity may also be raised as a defense by an employer for the employer's refusal to bargain collectively with a labor organization.".

AMENDMENT NO. 1982

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that this paragraph shall not apply to employers engaged in delivery of health care services (such as hospitals and nursing homes).".

AMENDMENT NO. 1983

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that this paragraph shall not apply to employers who do not have the capacity to stockpile the goods they manufacture.".

AMENDMENT NO. 1984

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that this paragraph shall not apply to employers whose cost of training new employees exceeds $1,000.".

AMENDMENT NO. 1985

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that this paragraph shall not apply to employers engaged in a strike in which the final collective bargaining contract offer made by the labor organization prior to the strike exceeds the previous wage and benefit level of unit employees by 10 percent or more.".

AMENDMENT NO. 1986

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that this paragraph shall not apply (1) in the case of a labor organization that has engaged in threats of violence, acts of violence, harassment or intimidation in connection with the labor dispute involved, against the employer, against any of its agents, against any employees or against an employer's property; (2) or to a labor dispute that costs the State, city, county or other political subdivision of the State in which the dispute incurs more than $100,000 in additional wages and overtime expenses for law enforcement or other employees of that State, city, county or political subdivision, and the labor organization involved shall be liable for any such expenses; or (3) in the case that any employee who, under the terms of the employer's last contract offer, would be paid in wages and benefits an amount that exceeds 150 percent of the per capita personal income of persons employed within the State in which that employee is employed.".

AMENDMENT NO. 1987

At the appropriate place, insert the following new section:

SEC. . EFFECT OF STATE LAW.

Notice in the amendments made by this Act shall be construed as prohibiting the hiring of permanent replacements for employees engaged in a labor dispute that does not involve an unfair labor practice committed by the employer if such hiring is permitted by State or territorial law.

AMENDMENT NO. 1988

At the appropriate place, insert the following new section:

SEC. . LABOR ORGANIZATIONS.

Title III of FECA, is amended by inserting after section 304 the following new section:

"DISCLOSURE OF INFORMATION CONCERNING EXPENDITURE OF UNION DUES, FEES AND ASSESSMENTS, AND ACTIVITIES

"SEC. 304A. (a) IN GENERAL.—Each labor organization shall, not later than January 30 of the year following the end of each Federal election cycle, provide to the Commission and to each employee within the labor organization's bargaining unit or units a written report disclosing the portion of the labor organization's income from dues, fees, and assessments that was expended directly or indirectly with respect to activities that, in whole or in part, were in connection with an election for Federal office during that election cycle.

"(b) CONTENTS.—

"(1) IN GENERAL.—The report under subsection (a) shall disclose information on the dues and fees spent at each level of the labor organization and by each component (international, national, local) and each affiliate and counsel of the labor organization, including the amount of dues, fees, and assessments that were spent—

"(A) on direct activities, such as cash contributions, to candidates and committees of political parties;

"(B) on internal and external communications relating to specifics candidates and political causes;

"(C) internally by the labor organization to maintain, operate, and solicit contributions for separate segregated funds; and

"(D) on voter registration drives, State and precinct organizing on behalf of candidates, and get-out-the-vote campaigns.

"(2) IDENTIFICATION OF CANDIDATE.—For each of the categories of information described in paragraph (1)(A), (B), (C), and (D), the report shall identify the candidate for public office on whose behalf expenditures were made or the political cause or purpose for which expenditures were made.

"(c) DEFINITION.—For purposes of this section, the term 'in connection with an election for Federal office' has the meaning that it has under section 325(b)".

AMENDMENT NO. 1989

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that this paragraph shall not apply to a labor dispute that costs the State, city, county or other political subdivision of the State in which the dispute incurs more than $100,000 in additional wages and overtime expenses for law enforcement or other employees of that State, city, county or political subdivision, and the labor organization involved shall be liable for any such expenses.".

AMENDMENT NO. 1990

On page 5, line 15, strike out the first period and all that follows and insert in lieu thereof the following:

";

"except that this paragraph shall not apply in the case of a labor organization that has engaged in threats of violence, acts of violence, harassment or intimidation in connection with the labor dispute involved, against the employer, against any of its agents, against any employees or against an employer's property.".

AMENDMENT NO. 1991

At the appropriate place insert the following new section:

SEC. . APPLICATION OF AMENDMENTS.

Nothwithstanding the amendments made by this Act, with respect to a labor dispute that does not involve an unfair labor practice by the employer, the employer may hire a permanent replacement for any employee who, under the terms of the employer's last contract offer, would be paid in wages and benefits an amount that exceeds 150 percent of the per capita personal income of persons employed within the State in which that employee is employed.".

GRAMM AMENDMENT NO. 1992

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 55, supra, as follows:

At the appropriate place, insert the following:

DIVISION B—THE "CRIME CONTROL ACT OF 1992"

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "Crime Control Act of 1992".

(b) TABLE OF CONTENTS.—The following is the table of contents for this division:

Sec. 1. Short title and table of contents.

TITLE I—DEATH PENALTY

Sec. 101. Short title.
Sec. 102. Death penalty procedures.
Sec. 103. Conforming amendment relating to destruction of aircraft or aircraft facilities.
Sec. 104. Conforming amendment relating to espionage.
Sec. 105. Conforming amendment relating to transporting explosives.
Sec. 106. Conforming amendment relating to malicious destruction of Federal property by explosives.
Sec. 107. Conforming amendment relating to malicious destruction of interstate property by explosives.
Sec. 108. Conforming amendment relating to murder.
Sec. 109. Conforming amendment relating to killing official guests or internationally protected persons.
Sec. 110. Murder by Federal prisoner.
Sec. 111. Conforming amendment relating to kidnapping.
Sec. 112. Conforming amendment relating to hostage taking.
Sec. 113. Conforming amendment relating to mailability of injurious articles.
Sec. 114. Conforming amendment relating to presidential assassination.
Sec. 115. Conforming amendment relating to murder for hire.
Sec. 116. Conforming amendment relating to violent crimes in aid of racketeering activity.
Sec. 117. Conforming amendment relating to wrecking trains.
Sec. 118. Conforming amendment relating to bank robbery.
Sec. 119. Conforming amendment relating to terrorist acts.
Sec. 120. Conforming amendment relating to aircraft hijacking.
Sec. 121. Conforming amendment to Controlled Substances Act.
Sec. 122. Conforming amendment relating to genocide.
Sec. 123. Protection of court officers and jurors.
Sec. 124. Prohibition of retaliatory killings of witnesses, victims, and informants.
Sec. 125. Death penalty for murder of Federal law enforcement officers.
Sec. 126. Death penalty for murder of State or local law enforcement officers assisting Federal law enforcement officers.
Sec. 127. Implementation of the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.
Sec. 128. Amendment to Federal Aviation Act.
Sec. 129. Offenses of violence against maritime navigation or fixed platforms.
Sec. 130. Torture.
Sec. 131. Weapons of mass destruction.
Sec. 132. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 133. Death penalty for civil rights murders.
Sec. 134. Death penalty for murder of Federal witnesses.
Sec. 135. Drive-by shootings.
Sec. 136. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
Sec. 137. Death penalty for rape and child molestation murders.
Sec. 138. Protection of jurors and witnesses in capital cases.
Sec. 139. Inapplicability to Uniform Code of Military Justice.
Sec. 140. Death penalty for causing death in the sexual exploitation of children.
Sec. 141. Murder by escaped prisoners.
Sec. 142. Death penalty for murders in the District of Columbia.

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

Sec. 201. Short title.
Sec. 202. Period of limitation.
Sec. 203. Appeal.
Sec. 204. Amendment of Federal Rules of Appellate Procedure.
Sec. 205. Section 2254 amendments.
Sec. 206. Section 2255 amendments.

Subtitle B—Death Penalty Litigation Procedures

Sec. 211. Short title for subtitle B.
Sec. 212. Death penalty litigation procedures.

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

Sec. 221. Funding for death penalty prosecutions.

TITLE III—EXCLUSIONARY RULE

Sec. 301. Admissibility of certain evidence.

TITLE IV—FIREARMS AND RELATED AMENDMENTS

Sec. 401. Increased mandatory minimum sentences for criminals using firearms.
Sec. 402. Increased penalty for second offense of using an explosive to commit a felony.
Sec. 403. Smuggling firearms in aid of drug trafficking.
Sec. 404. Prohibition against theft of firearms or explosives.
Sec. 405. Increased penalty for knowingly false, material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 406. Summary destruction of explosives subject to forfeiture.
Sec. 407. Elimination of outmoded language relating to parole.
Sec. 408. Enhanced penalties for use of a firearm in the commission of counterfeiting or forgery.

Sec. 409. Mandatory penalties for firearms possession by violent felons and serious drug offenders.
Sec. 410. Receipt of firearms by nonresident.
Sec. 411. Prohibition against conspiracy to violate Federal firearms or explosives laws.
Sec. 412. Prohibition against theft of firearms or explosives from licensee.
Sec. 413. Prohibition against disposing of explosives to prohibited persons.
Sec. 414. Increased penalty for interstate gun trafficking.
Sec. 415. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.
Sec. 416. Possession of explosives by felons and others.
Sec. 417. Possession of an explosive during the commission of a felony.
Sec. 418. Disposition of forfeited firearms.
Sec. 419. Definition of serious drug offense.
Sec. 420. Definition of burglary under the armed career criminal statute.

TITLE V—JUVENILES AND GANGS

Subtitle A—Increased Penalties for Employing Children To Distribute Drugs Near Schools and Playgrounds

Sec. 501. Strengthened Federal penalties.

Subtitle B—Antigang Provisions

Sec. 511. Grant program.
Sec. 512. Conforming repealer and amendments.
Sec. 513. Criminal street gangs.

Subtitle C—Juvenile Penalties

Sec. 521. Treatment of violent juveniles as adults.
Sec. 522. Serious drug offenses by juveniles as armed career criminal act predicates.
Sec. 523. Certainty of punishment for young offenders.

Subtitle D—Other Provisions

Sec. 531. Bindover system for certain violent juveniles.
Sec. 532. Gang investigation coordination and information collection.
Sec. 533. Clarification of requirement that any prior record of a juvenile be produced before the commencement of juvenile proceedings.

TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

Sec. 601. Terrorism civil remedy.
Sec. 602. Providing material support to terrorists.
Sec. 603. Forfeiture of assets used to support terrorists.
Sec. 604. Alien witness cooperation.
Sec. 605. Territorial sea extending to 12 miles included in special maritime and territorial jurisdiction.
Sec. 606. Assimilated crimes in extended territorial sea.
Sec. 607. Jurisdiction over crimes against United States nationals on certain foreign ships.
Sec. 608. Penalties for international terrorist acts.
Sec. 609. Authorization of appropriations.
Sec. 610. Enhanced penalties for certain offenses.
Sec. 611. Sentencing guidelines increase for terrorist crimes.
Sec. 612. Extension of the statute of limitations for certain terrorism offenses.
Sec. 613. International parental kidnapping.
Sec. 614. State court programs regarding interstate and international parental child abduction.
Sec. 615. Foreign murder of United States nationals.
Sec. 616. Extradition.
Sec. 617. Gambling devices on United States ships.
Sec. 618. FBI access to telephone subscriber information.

TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

Sec. 701. Definition of sexual act for victims below 16 years of age.
Sec. 702. Increased penalties for recidivist sex offenders.
Sec. 703. Restitution for victims of sex offenses.
Sec. 704. HIV testing and penalty enhancement in sexual abuse cases.
Sec. 705. Payment of cost of HIV testing for victim.

Subtitle B—Victims' Rights

Sec. 711. Restitution amendments.
Sec. 712. Victim's right of allocution in sentencing.
Sec. 713. Right of the victim to an impartial jury.
Sec. 714. Mandatory restitution and other provisions.

Subtitle C—Crime Victims Fund

Sec. 721. Crime victims fund.
Sec. 722. Percentage change in crime victim compensation formula.
Sec. 723. Administrative costs for crime victim compensation.
Sec. 724. Relationship of crime victim compensation to certain Federal programs.
Sec. 725. Use of unspent section 1403 money.
Sec. 726. Underserved victims.
Sec. 727. Grants for demonstration projects.
Sec. 728. Administrative costs for crime victim assistance.
Sec. 729. Change of due date for required report.
Sec. 730. Maintenance of effort.
Sec. 731. Delayed effective date for certain provisions.

Subtitle D—National Child Protection Act

Sec. 741. Short title.
Sec. 742. Findings and purposes.
Sec. 743. Definitions.
Sec. 744. Reporting by the States.
Sec. 745. Background checks.
Sec. 746. Funding for improvement of child abuse crime information.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

Sec. 751. Short title.
Sec. 752. Establishment of program.
Sec. 753. State compliance.

Subtitle F—Domestic Violence

Sec. 761. Domestic violence grants.
Sec. 762. Report on battered women's syndrome.

Subtitle G—Other Provisions

Sec. 771. Inducement of minor to commit an offense.
Sec. 772. Disclosure of records of arrests by campus police.
Sec. 773. National baseline study on campus sexual assault.
Sec. 774. Sense of Congress concerning child custody and visitation rights.

TITLE VIII—EQUAL JUSTICE ACT

Sec. 801. Short title.
Sec. 802. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.
Sec. 803. General safeguards against racial prejudice or bias in the tribunal.
Sec. 804. Federal capital cases.
Sec. 805. Extension of protection of civil rights statutes.

TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

Sec. 901. Short title.
Sec. 902. Grants to State and local agencies.
Sec. 903. Continuation of Federal-State funding formula.
Sec. 904. Grants for multi-jurisdictional drug task forces.

Subtitle B—Retired Public Safety Officer Death Benefit

Sec. 911. Retired public safety officer death benefit.

Subtitle C—Study on Police Officers' Rights

Sec. 921. Study on police officers' rights.

Subtitle D—Community Policing

CHAPTER 1—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

Sec. 931. Short title.
Sec. 932. Purposes.
Sec. 933. Establishment of Office of the Police Corps and Law Enforcement Education.
Sec. 934. Designation of lead agency and submission of State plan.

Subchapter A—Police Corps Program

Sec. 935. Definitions.
Sec. 936. Scholarship assistance.
Sec. 937. Selection of participants.
Sec. 938. Police corps training.
Sec. 939. Service obligation.
Sec. 940. State plan requirements.
Sec. 941. Authorization of appropriations.

Subchapter B—Law Enforcement Scholarship Program

Sec. 942. Short title.
Sec. 943. Definitions.
Sec. 944. Allotment.
Sec. 945. Program established.
Sec. 946. Scholarships.
Sec. 947. Eligibility.
Sec. 948. State application.
Sec. 949. Local application.
Sec. 950. Scholarship agreement.
Sec. 951. Authorization of appropriations.

Subchapter C—Reports

Sec. 952. Reports to Congress.

CHAPTER 2—COP-ON-THE-BEAT GRANTS

Sec. 961. Short title.
Sec. 962. Cop-on-the-beat grants.

Subtitle E—Rural Crime Prevention Strategy

Sec. 971. Findings.
Sec. 972. Strategy to address rural crime.
Sec. 973. National Institute of Justice national assessment.
Sec. 974. Pilot programs.
Sec. 975. Funding.

Subtitle F—National Commission to Support Law Enforcement

Sec. 981. Short title.
Sec. 982. Findings.
Sec. 983. Establishment of commission.
Sec. 984. Duties.
Sec. 985. Membership.
Sec. 986. Experts and consultants.
Sec. 987. Powers of commission.
Sec. 988. Report.
Sec. 989. Termination.
Sec. 989A. Repeals.

Subtitle G—Other Provisions

Sec. 991. Missing Alzheimer's disease patient alert program.

Sec. 992. Authorization of appropriations for Bureau of Justice Assistance discretionary grants.
Sec. 993. Law enforcement family support.
Sec. 994. Mandatory literacy program.
Sec. 995. Trauma centers and crime-related violence.
Sec. 996. Study and assessment of alcohol use and treatment.
Sec. 997. Notice of release of prisoners.

TITLE X—ILLEGAL DRUGS

Subtitle A—Drug Testing

Sec. 1001. Drug testing of Federal offenders on post-conviction release.
Sec. 1002. Drug testing in State criminal justice systems.

Subtitle B—Precursor Chemicals

Sec. 1011. Short title.
Sec. 1012. Definition amendments.
Sec. 1013. Registration requirement.
Sec. 1014. Reporting of listed chemical manufacturing.
Sec. 1015. Reports by brokers and traders; criminal penalties.
Sec. 1016. Exemption authority; additional penalties.
Sec. 1017. Amendments to list I.
Sec. 1018. Elimination of regular supplier status and creation of regular importer status.
Sec. 1019. Administrative inspections and authority.
Sec. 1020. Threshold amounts.
Sec. 1021. Management of listed chemicals.
Sec. 1022. Attorney General access to the National Practitioner Data Bank.
Sec. 1023. Regulations and effective date.

Subtitle C—Interdiction

Sec. 1031. Sanctions for failure to land or to bring to.
Sec. 1032. FAA revocation authority.
Sec. 1033. Coast Guard air interdiction authority.
Sec. 1034. Coast Guard civil penalty provisions.
Sec. 1035. Customs orders.
Sec. 1036. Customs civil penalty provisions.
Sec. 1037. Information exchange and assistance.
Sec. 1038. Assistance to foreign governments and international organizations.
Sec. 1039. Amendment to the Mansfield amendment to permit maritime law enforcement operations in archipelagic waters.

Subtitle D—Rural Drug Crime

Sec. 1051. Rural drug enforcement task forces.
Sec. 1052. Cross-designation of Federal officers.
Sec. 1053. Rural drug enforcement training.
Sec. 1054. Authorization of appropriations for rural law enforcement agencies.
Sec. 1055. Rural substance abuse treatment and education grants.
Sec. 1056. Clearinghouse program.

Subtitle E—Grant Programs

Sec. 1061. Drug emergency areas.
Sec. 1062. Department of Justice community substance abuse prevention.
Sec. 1063. Grants for substance abuse treatment.
Sec. 1064. Drug testing upon arrest.

Subtitle F—Other Provisions

Sec. 1071. Strengthened Federal penalties relating to crystalline methamphetamine.
Sec. 1072. Advertisements of controlled substances.
Sec. 1073. Increased penalties for distribution of controlled substances at truck stops and rest areas.
Sec. 1074. Enhancement of penalties for drug trafficking in prisons.
Sec. 1075. Seizure of vehicles with concealed compartments.
Sec. 1076. Closing of loophole for illegal importation of small drug quantities.
Sec. 1077. Undercover operations—churning.
Sec. 1078. Drug paraphernalia amendment.
Sec. 1079. Conforming amendments concerning marijuana.
Sec. 1080. Conforming amendment adding certain drug offenses as requiring fingerprinting and records for recidivist juveniles.
Sec. 1081. Clarification of narcotic or other dangerous drugs under RICO.
Sec. 1082. Conforming amendments to recidivist penalty provisions of the Controlled Substances Act and the Controlled Substances Import and Export Act.
Sec. 1083. Elimination of outmoded language relating to parole.
Sec. 1084. Conforming amendment to provision punishing a second offense of distributing drugs to a minor.
Sec. 1085. Life imprisonment without release for criminals convicted a third time.
Sec. 1086. Longer prison sentences for those who sell illegal drugs to minors or for use of minors in drug trafficking activities.
Sec. 1087. Drug paraphernalia.
Sec. 1088. Mandatory penalties for illegal drug use in Federal prisons.
Sec. 1089. Drug distribution to pregnant women.
Sec. 1090. Drugged or drunk driving child protection.
Sec. 1091. Penalties for drug dealing in public housing authority facilities.
Sec. 1092. Eviction from places maintained for manufacturing, distributing, or using controlled substances.
Sec. 1093. Increased penalties for drug dealing in "drug-free" zones.
Sec. 1094. Anabolic steroids penalties.
Sec. 1095. Program to provide public awareness of the provisions of law that condition portions of a State's Federal highway funding on the State's enactment of legislation requiring the revocation of the driver's licenses of convicted drug abusers.
Sec. 1096. Drug abuse resistance education programs.
Sec. 1097. Misuse of the words "Drug Enforcement Administration" or the initials "DEA".

TITLE XI—PUBLIC CORRUPTION

Sec. 1101. Short title.
Sec. 1102. Public corruption.
Sec. 1103. Interstate commerce.
Sec. 1104. Narcotics-related public corruption.

TITLE XII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

Sec. 1201. Addition of attempted robbery, kidnapping, smuggling, and property damage offenses to eliminate inconsistencies and gaps in coverage.
Sec. 1202. Increase in maximum penalty for assault.
Sec. 1203. Increased maximum penalty for manslaughter.
Sec. 1204. Violent felonies against the elderly.
Sec. 1205. Increased penalty for Travel Act violations.
Sec. 1206. Increased penalty for conspiracy to commit murder for hire.

Subtitle B—Civil Rights Offenses

Sec. 1211. Increased maximum penalties for civil rights violations.

Subtitle C—White Collar and Property Crimes

Sec. 1221. Receipt of proceeds of a postal robbery.
Sec. 1222. Receipt of proceeds of extortion or kidnapping.
Sec. 1223. Conforming addition to obstruction of civil investigative demand statute.
Sec. 1224. Conforming addition of predicate offenses to financial institutions rewards statute.
Sec. 1225. Definition of savings and loan association in bank robbery statute.
Sec. 1226. Conforming definition of "1 year period" in 18 U.S.C. 1516.
Sec. 1227. Professional and amateur sports protection.
Sec. 1228. Criminal sanctions for violation of software copyright.
Sec. 1229. Financial institutions fraud.
Sec. 1230. Wiretaps.
Sec. 1231. Thefts of major art works.
Sec. 1232. Military medals and decorations.
Sec. 1233. Motor Vehicle Theft Prevention Act.
Sec. 1234. Knowledge requirement for stolen or counterfeit property.
Sec. 1235. Mail fraud.
Sec. 1236. Fraud and related activity in connection with access devices.
Sec. 1237. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
Sec. 1238. Increased penalties for trafficking in counterfeit goods and services.
Sec. 1239. Computer Abuse Amendments Act of 1992.
Sec. 1239A. Notification of law enforcement officers of discoveries of controlled substances or large amounts of cash in weapons screening.

Subtitle D—Sentencing and Procedure

Sec. 1241. Imposition of sentence.
Sec. 1242. Technical amendment to mandatory conditions of probation.
Sec. 1243. Revocation of probation.
Sec. 1244. Supervised release after imprisonment.
Sec. 1245. Authorization of probation for petty offenses in certain cases.
Sec. 1246. Trial by a magistrate in petty offense cases.
Sec. 1247. Conforming authority for magistrates to revoke supervised release in addition to probation in misdemeanor cases in which the magistrate imposed sentence.
Sec. 1248. Availability of supervised release for juvenile offenders.
Sec. 1249. Immunity.
Sec. 1250. Extended service of members of the Sentencing Commission.

Subtitle E—Immigration-Related Offenses

Sec. 1251. Exploitation of aliens.
Sec. 1252. Criminal alien identification and removal fund.
Sec. 1253. Aliens convicted of felony drunk driving.

Subtitle F—United States Marshals
Sec. 1261. Short title.
Sec. 1262. Establishment and purpose of association.
Sec. 1263. Board of directors of the association.
Sec. 1264. Membership.
Sec. 1265. Rights and obligations of the association.
Sec. 1266. Administrative services and support.
Sec. 1267. Volunteer status.
Sec. 1268. Restrictions.
Sec. 1269. Audits, report requirements, and petition of Attorney General for equitable relief.
Sec. 1270. Liability of the United States.
Sec. 1271. Nondiscrimination.
Sec. 1272. Acquisition of assets and liabilities of existing association.
Sec. 1273. Amendment and repeal.
Subtitle G—Other Provisions
Sec. 1281. Optional venue for espionage and related offenses.
Sec. 1282. Definition of livestock.
Sec. 1283. Court to be held at Lancaster.
Sec. 1284. Authorization of funds for construction of a United States Attorney's Office in Philadelphia, Pennsylvania.
Sec. 1285. Award of attorney's fees for employees of Department of Justice.
Sec. 1286. Required reporting by criminal court clerks.
Sec. 1287. Audit requirement for State and local law enforcement agencies receiving Federal asset forfeiture funds and report to Congress on administrative expenses.
Sec. 1288. DNA identification.
Sec. 1289. Safe schools.
TITLE XIII—TECHNICAL CORRECTIONS
Sec. 1301. Amendments relating to Federal financial assistance for law enforcement.
Sec. 1302. General title 18 corrections.
Sec. 1303. Corrections of erroneous cross references and misdesignations.
Sec. 1304. Obsolete provisions in title 18.
Sec. 1305. Correction of drafting error in the Foreign Corrupt Practices Act.
Sec. 1306. Elimination of redundant penalty.
Sec. 1307. Corrections of misspellings and grammatical errors.
TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES
Sec. 1401. Short title.
Sec. 1402. Authorization of appropriations for Federal law enforcement agencies.
TITLE XV—FEDERAL PRISONS
Sec. 1501. Authorization of appropriations for new prison construction.

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1992".

SEC. 102. DEATH PENALTY PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.
"3600. Application in Indian country.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381;

"(2) an offense described in section 1751(c) if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President;

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B);

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or

"(6) any other offense for which a sentence of death is provided if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense or who is mentally retarded.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant's participation in the offense, which was committed by another, was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) NO SIGNIFICANT CRIMINAL HISTORY.—The defendant did not have a significant history of other criminal conduct.

"(5) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(6) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) CONDUCT OCCURRED DURING COMMISSION OF SPECIFIED CRIMES.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain

purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339A (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 921); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use of attempted or threatened use of a firearm (as defined in section 921), against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with sections 1 and 2 of title 3; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591 (3), (4), or (5), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm (as defined in section 921) to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant. The information presented by the Government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591 (2) or (6), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591 (3), (4), or (5), an aggravating factor required to be considered under section 3592(d) is found to exist,

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) AFFIRMANCE.—If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal,

it shall affirm the sentence.

"(2) REMAND.—In a case in which the sentence is not affirmed under paragraph (1), the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor required to be considered under section 3592 remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors.

"(3) STATEMENT OF REASONS.—The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) SPECIAL BARS TO EXECUTION.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department

of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) REPRESENTATION OF INDIGENT DEFENDANTS.—This section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) has occurred. This section shall not affect the appointment of counsel and the provision of ancillary legal services under section 408(q) (4), (5), (6), (7), (8), (9), and (10) of the Controlled Substances Act (21 U.S.C. 848 (q) (4), (5), (6), (7), (8), (9), and (10)).

"(b) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within 10 days after receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order—

"(1) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel;

"(2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation.

Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this section, at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet the standards prescribed in the two preceding sentences, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§ 3599. Collateral attack on judgment imposing sentence of death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which a sentence of death has been imposed, and the judgment has become final as described in section 3598(c), a motion in the case under section 2255 of title 28 shall be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(c). The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the motion under that section is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of the decision to do so, the defendant waives the right to file a motion under section 2255 of title 28.

"(c) FINALITY OF DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was—

"(A) the result of governmental action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 3600. Application in Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has made an election that this chapter has effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by adding after the item relating to chapter 227 the following new item:

"228. Death penalty procedures ..... 3591.".

SEC. 103. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 104. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18, United States Code, is amended by striking the period at the end and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 that the offense directly concerned—

"(1) nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack;

"(2) war plans;

"(3) communications intelligence or cryptographic information;

"(4) sources or methods of intelligence or counterintelligence operations; or

"(5) any other major weapons system or major element of defense strategy.".

SEC. 105. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 106. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 107. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 108. CONFORMING AMENDMENT RELATING TO MURDER.

Section 1111(b) of title 18, United States Code, is amended to read as follows:

"(b) Within the special maritime and territorial jurisdiction of the United States—

"(1) whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life; and

"(2) whoever is guilty of murder in the second degree shall be imprisoned for any term of years or for life".

SEC. 109. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18, United States Code, is amended by striking the comma after "title" and all that follows through "years".

SEC. 110. MURDER BY FEDERAL PRISONER.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) DEFINITIONS.—For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

SEC. 111. CONFORMING AMENDMENT RELATING TO KIDNAPPING.

Section 1201(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 112. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.

Section 1203(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 113. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 114. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Section 1751(c) of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, by death or imprisonment for any term of years or for life.".

SEC. 115. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

SEC. 116. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine in accordance with this title, or both, and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

SEC. 117. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The penultimate paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 118. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

SEC. 119. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Section 2332(a)(1) of title 18, United States Code, as redesignated by section 601(b)(2), is amended to read as follows:

"(1) if the killing is murder as defined in section 1111(a), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 120. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1473) is amended by striking subsection (c).

SEC. 121. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by striking subsections (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q) (1), (2), and (3), and (r).

SEC. 122. CONFORMING AMENDMENT RELATING TO GENOCIDE.

Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 and imprisonment for life" and inserting "death or imprisonment for life and a fine of not more than $1,000,000".

SEC. 123. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) in subsection (a), as designated by paragraph (1)—

(A) by striking "commissioner" each place it appears and inserting "magistrate judge"; and

(B) by striking "fined not more than $5,000 or imprisoned not more than five years, or both" and inserting "punished as provided in subsection (b)"; and

(3) by adding at the end the following new subsection:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years; and

"(3) in any other case, imprisonment for not more than 10 years.".

SEC. 124. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b), as redesignated by paragraph (1), the following new subsection:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

SEC. 125. DEATH PENALTY FOR MURDER OF FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by striking "be punished as provided under sections 1111 and 1112 of this title, except that" and inserting ", in the case of murder (as defined in section 1111), be punished by death or imprisonment for life, and, in the case of manslaughter (as defined in section 1112), be punished as provided in section 1112, and".

SEC. 126. DEATH PENALTY FOR MURDER OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS ASSISTING FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by inserting ", or any State or local law enforcement officer while assisting, or on account of his or her assistance of, any Federal officer or employee covered by this section in the performance of duties," after "other statutory authority".

SEC. 127. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at the airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 128. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

SEC. 129. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) OFFENSE.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 2280. Violence against maritime navigation

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of an offense described in paragraph (1), (2), (3), (4), (5), or (6); or

"(8) attempts to commit any act prohibited under paragraph (1), (2), (3), (4), (5), (6), or (7),

shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to commit any act prohibited under subsection (a) (2), (3), or (5), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured, or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) DELIVERY OF PROBABLE OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he or she has on board the ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action the master should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his or her intention to deliver such person and the reason therefor. If the master delivers such person, the master shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) DEFINITIONS.—As used in this section—

"(1) 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship that has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance that is likely to destroy the fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or attempted commission of an offense described in paragraph (1), (2), (3), or (4); or

"(6) attempts to do anything prohibited under paragraphs (1), (2), (3), (4), or (5);

shall be fined under this title, imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to do anything prohibited under subsection (a) (2) or (3), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental

shelf of the United States and the offender is later found in the United States.

"(d) DEFINITIONS.—As used in this section—

"(1) 'continental shelf' means the seabed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date on which the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date on which the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 130. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§ 2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 113A the following new item:

"113B. Torture ..... 2340.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 131. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction (as defined in the amendment made by subsection (b)) gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, as amended by section 601(b), is amended by adding at the end the following new section:

"§ 2339A. Use of weapons of mass destruction

"(a) OFFENSE.—Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—As used in this section—

"(1) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(A) a destructive device (as defined in section 921);

"(B) poison gas;

"(C) a weapon involving a disease organism; and

"(D) a weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(c), is amended by adding at the end the following new item:

"2339A. Use of weapons of mass destruction.".

SEC. 132. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (a), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (b) the following new subsection:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder (as defined in section 1111(a)), be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113.".

SEC. 133. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting "the death penalty or" before "imprisonment".

SEC. 134. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder (as defined in section 1111), the death penalty or imprison-

ment for life, and in the case of any other killing, the punishment provided in section 1112;".

SEC. 135. DRIVE-BY SHOOTINGS.

(a) OFFENSE.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 931. Drive-by shootings

"(a) OFFENSE.—Whoever knowingly discharges a firearm at a person—

"(1) in the course of or in furtherance of drug trafficking activity; or

"(2) from a motor vehicle,

shall be punished by imprisonment for not more than 25 years, and if death results shall be punished by death or by imprisonment for any term of years or for life.

"(b) DEFINITION.—As used in this section, the term 'drug trafficking activity' means a drug trafficking crime (as defined in section 929(a)(2)), or a pattern or series of acts involving one or more drug trafficking crimes.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following new item:

"931. Drive-by shootings.".

SEC. 136. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) Whoever, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.".

SEC. 137. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

"§ 2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item relating to section 2245 and inserting the following:

"2245. Sexual abuse resulting in death.

"2246. Definitions for chapter.".

SEC. 138. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by striking the period and inserting: ", except that the list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person.".

SEC. 139. INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

SEC. 140. DEATH PENALTY FOR CAUSING DEATH IN THE SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following new sentence: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 141. MURDER BY ESCAPED PRISONERS.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, as amended by section 110, is amended by adding at the end the following new section:

"§ 1119. Murder by escaped prisoners

"(a) OFFENSE.—A person who, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another person, shall be punished as provided in sections 1111 and 1112.

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1119. Murder by escaped prisoners.".

SEC. 142. DEATH PENALTY FOR MURDERS IN THE DISTRICT OF COLUMBIA.

Title 18 of the United States Code is amended—

(a) by adding the following new section at the end of chapter 51:

"§ 1118. Capital punishment for murders in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is a federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in subsections (d)-(1).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2 of this title) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm as defined in section 921 of this title.

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than one year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(i) while such public servant was engaged in the performance of his or her official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under

this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have twelve members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that one or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005 of this title, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to ob-

tain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsections (q)-(r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least three years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28, United States Code, attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning given in section 513 of this title, including the District of Columbia;

"(2) 'Offense', as used in paragraphs (2), (5), and (13) of subsection (e), and in paragraph (5) of this subsection, means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'Drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2) of this title, or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'Robbery' means obtaining the property of another by force or threat of force;

"(5) 'Burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'Sexual abuse' means any conduct proscribed by chapter 109A of this title, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'Arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'Kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'Pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'Public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116 of this title.

"(y) When an offense is charged under this section, the government may join any charge under the District of Columbia Code that arises from the same incident."; and

"(b) by adding the following at the end of the table of sections for chapter 51:

"1118. Capital punishment for murders in the District of Columbia.".

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

SEC. 201. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1992".

SEC. 202. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 203. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 204. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"*Rule 22. Habeas corpus and section 2255 proceedings*

"(*a*) *Application for an Original Writ of Habeas Corpus.*—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(*b*) *Necessity of Certificate of Probable Cause for Appeal.*—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to

the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate of probable cause is not required.".

SEC. 205. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence."; and

(5) by adding at the end the following new subsection:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

SEC. 206. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second paragraph and the penultimate paragraph; and

(2) by adding at the end the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

Subtitle B—Death Penalty Litigation Procedures

SEC. 211. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1992".

SEC. 212. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) APPLICATION OF CHAPTER.—This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) ESTABLISHMENT OF APPOINTMENT MECHANISM.—This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) OFFER OF COUNSEL.—Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing 1 or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) PREVIOUS REPRESENTATION.—No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) NO GROUND FOR RELIEF.—The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) STAY.—Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) EXPIRATION OF STAY.—A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court;

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) LIMITATION ON FURTHER STAY.—If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed 60 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) REVIEW OF RECORD; HEARING.—Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) ADJUDICATION.—Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§ 2261. Application to State unitary review procedure

"(a) IN GENERAL.—For purposes of this section, the term 'unitary review procedure' means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) OFFER OF COUNSEL.—A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) APPLICATION OF OTHER SECTIONS.—Sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, the start of the 180-day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or the prisoner's counsel.

"§ 2262. Limitation periods for determining petitions

"(a) IN GENERAL.—The adjudication of any petition under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) A Federal district court shall determine such a petition or motion within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 20 days of the filing of the application unless a responsive pleading is required, in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The Supreme Court shall act on any application for a writ of certiorari relating to such a petition or motion within 90 days after the application is filed.

"(b) APPLICATION OF SECTION.—The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the redetermination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) RULE OF CONSTRUCTION.—The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) NO GROUND FOR RELIEF.—The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) REPORT.—The Administrative Office of the United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

"§ 2263. Rule of construction

"This chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases ..... 2256.".

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

SEC. 221. FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after section 511 the following new section:

"FUNDING FOR DEATH PENALTY PROSECUTIONS

"SEC. 511A. Notwithstanding any other provision of this part, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

TITLE III—EXCLUSIONARY RULE

SEC. 301. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence that is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 223 of title 28, United States Code, is amended by adding at the end the following new item:

"3509. Admissibility of evidence obtained by search or seizure.".

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly uses, carries, or otherwise possesses a firearm, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 10 years;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years; or

"(iii) knowingly uses, carries, or otherwise possesses a firearm that is a machinegun or destructive device, or that is equipped with a firearm silencer or firearm muffler, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 30 years.

"(B)(i) In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years for a violation of subparagraph (A)(i), to imprisonment for 30 years for a violation of subparagraph (A)(ii), and life imprisonment for a violation of subparagraph (A)(iii).

"(ii) In the case of a third or subsequent conviction under this subsection, or a conviction for a violation of subparagraph (A)(ii) that results in the death of another person, a person shall be sentenced to life imprisonment.

"(C) Notwithstanding any other law, a term of imprisonment under this subsection shall not run concurrently with any other term of imprisonment imposed for the underlying crime.

"(D) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.".

SEC. 402. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten" and inserting "20".

SEC. 403. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 136, is amended by adding at the end the following new subsection:

"(j) Whoever, with the intent to engage in or to promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3) of this section),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 404. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 403, is amended by adding at the end the following new subsection:

"(k) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned not less than 2 nor more than 10 years, fined in accordance with this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned not less than 2 nor more than 10 years, fined in accordance with this title, or both.".

SEC. 405. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B) by striking "(a)(6),"; and

(2) in paragraph (2) by inserting "(a)(6)," after "subsection".

SEC. 406. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Any"; and

(2) by adding at the end the following new paragraphs:

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 407. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein."; and

(2) in subsection (e)(1) by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

SEC. 408. ENHANCED PENALTIES FOR USE OF A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, as amended by section 401, is amended in subparagraph (A) by inserting "or during and in relation to any felony punishable under chapter 25" after "United States,".

SEC. 409. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) ONE PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony or a serious drug offense (as defined in subsections (e)(2) (A) and (B) of this section), a sentence imposed under this paragraph shall include a term of imprisonment of not less than 5 years" before the period.

(b) TWO PRIOR CONVICTIONS.—Section 924 of title 18, United States Code, as amended by section 404, is amended by adding at the end the following new subsection:

"(l)(1) Notwithstanding subsection (a)(2), any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section) committed on occasions different from one another shall be fined as provided in this title, imprisoned not less than 10 years and not more than 20 years, or both.

"(2) Notwithstanding any other law, the court shall not suspend the sentence of, or grant a probationary sentence to, a person described in paragraph (1) with respect to the conviction under section 922(g).".

SEC. 410. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)(C) by striking "and";

(2) in paragraph (8)(C) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 411. PROHIBITION AGAINST CONSPIRACY TO VIOLATE FEDERAL FIREARMS OR EXPLOSIVES LAWS.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 409(b), is amended by adding at the end the following new subsection:

"(m) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 404(b), is amended by adding at the end the following new subsection:

"(l) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 412. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 411(a), is amended by adding at the end the following new subsection:

"(n) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 411(b), is amended by adding at the end the following new subsection:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

SEC. 413. PROHIBITION AGAINST DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 414. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 412(a), is amended by adding at the end the following new subsection:

"(o) Whoever, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

SEC. 415. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 416. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 417. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

Section 844(h) of title 18, United States Code, is amended—

(1) by striking "carries an explosive during" and inserting "uses, carries, or otherwise possesses an explosive during"; and

(2) by striking "used or carried" and inserting "used, carried, or possessed".

SEC. 418. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) the Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) if the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel or rare or because of its association with some historical figure, period, or event, the Secretary may sell the firearm, after public notice, at public sale to a dealer licensed under chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed or pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, who shall destroy or provide for the destruction of such firearm; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 419. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by adding "or" at the end of clause (ii); and

(3) by adding at the end the following new clause:

"(iii) an offense under State law that, if it had been prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) as that Act provided at the time of the offense, would have been punishable by a maximum term of 10 years or more;".

SEC. 420. DEFINITION OF BURGLARY UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) the term 'burglary' means a crime that—

"(i) consists of entering or remaining surreptitiously within a building that is the property of another person with intent to engage in conduct constituting a Federal or State offense; and

"(ii) is punishable by a term of imprisonment exceeding 1 year.".

TITLE V—JUVENILES AND GANGS

Subtitle A—Increased Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

SEC. 501. STRENGTHENED FEDERAL PENALTIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

Subtitle B—Antigang Provisions

SEC. 511. GRANT PROGRAM.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

(1) by inserting after the part heading the following subpart heading:

"Subpart I—General Grant Programs";

and

(2) by adding at the end the following new subpart:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) AUTHORIZATION.—The Administrator may make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) PARTICULAR PURPOSES.—The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug-related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools.

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(3) To develop within the juvenile justice system, including the juvenile corrections

system, innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(4) To reduce juvenile drug and gang-related activity in public housing projects.

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to—

"(A) identify drug-dependent or gang-involved juvenile offenders; and

"(B) provide appropriate counseling and treatment to such offenders.

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic, or artistic enrichment that also teach that drug and gang involvement are wrong.

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention, and treatment programs for juveniles who are likely to participate in drug trafficking, drug use, or gang-related activities.

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls' and boys' clubs, scout troops, and little leagues.

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers.

"(10) To provide education and treatment programs for juveniles exposed to severe violence in their homes, schools, or neighborhoods.

"(11) To establish sports mentoring and coaching programs in which athletes serve as role models for juveniles to teach that athletics provides a positive alternative to drug and gang involvement.

"(c) USE OF FUNDS.—Of the funds made available to each State under this section in any fiscal year, 50 percent shall be used for juvenile drug supply reduction programs and 50 percent shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) PURPOSE.—(1) The purpose of this section is to—

"(A) provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs;

"(B) replicate and demonstrate such programs to serve as national, regional, or local models that could be used, in whole or in part, by other public and private juvenile justice programs; and

"(C) provide technical assistance and training to public or private organizations to implement similar programs.

"(2) In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) AUTHORIZATION OF GRANTS AND CONTRACTS.—The Administrator may make grants to, or enter into contracts with, public or private nonprofit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this section.

"(c) ALLOCATION OF APPROPRIATIONS.—Of the amounts appropriated for this subpart, 20 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 and subsection (a). Grants made under this section may be made for amounts of up to 100 percent of the costs of the programs or projects.

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) PURPOSE.—The purpose of this section is to—

"(1) provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime-, drug-, and alcohol-related challenges faced by juveniles residing at or near ports of entry into the United States and in other international border communities, including rural localities;

"(2) replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) provide technical assistance and training to public and private organizations to implement similar programs.

"(b) AUTHORIZATION OF GRANTS AND CONTRACTS.—The Administrator may make grants to, or enter into contracts with, public or private nonprofit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles residing at or near ports of entry into the United States or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) ALLOCATION OF APPROPRIATIONS.—Of the amounts appropriated for this subpart, 5 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 and subsection (a). Grants made under this section may be made for amounts of up to 100 percent of the costs of the programs.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 234. There are authorized to be appropriated $100,000,000 for fiscal year 1992 and such sums as are necessary for fiscal year 1993 to carry out this subpart.

"ALLOCATION OF FUNDS

"SEC. 235. Of the amounts appropriated for this subpart for any fiscal year, the amount remaining after setting aside the amounts required to be reserved to carry out sections 232 and 233 shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States.

"(2) Of the funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles residing in the State bears to the population of juveniles residing in all the States.

"APPLICATION

"SEC. 236. (a) IN GENERAL.—Each State applying for a grant under section 231 and each public or private entity applying for grants under section 232 or 233 shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) REGULATIONS.—To the extent practicable, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the regulations governing applications required under subpart I of this part and subpart II of part C, including the regulations relating to competition.

"(c) COORDINATION OF ASSISTANCE.—Each application described in subsection (a) shall include a detailed description of how the funds received under this subpart will be coordinated with assistance provided under subpart I of this part and part C of this title and assistance provided by the Bureau of Justice Assistance under the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Programs (42 U.S.C. 3750 et seq.).

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 237. The procedures and time limits imposed on the Federal and State governments under sections 505 and 508 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755 and 3758) relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 512. CONFORMING REPEALER AND AMENDMENTS.

(a) REPEAL OF PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is repealed, and part E of title II of that Act is redesignated as part D.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and by striking "(other than part D)"; and

(B) by striking paragraph (2); and

(2) in subsection (b) by striking "(other than part D)".

SEC. 513. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 25 the following new chapter:

"CHAPTER 26—CRIMINAL STREET GANGS

"Sec.

"521. Criminal street gangs.

"§ 521. Criminal street gangs

"(a) ENHANCED PENALTY.—Whoever, under the circumstances described in subsection (c), commits an offense described in subsection (b), shall, in addition to any other sentence authorized by law, be sentenced to a term of imprisonment of not more than 10 years and may also be fined under this title. A sentence of imprisonment imposed under this subsection shall run consecutively to any other sentence that is imposed.

"(b) OFFENSES.—The offenses referred to in subsection (a) are—

"(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(2) a Federal felony crime of violence;

"(3) a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.); and

"(4) a conspiracy to commit an offense described in paragraph (1), (2), or (3).

"(c) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

"(1) that the offense described in subsection (b) was committed by a member of, on behalf of, or in association with a criminal street gang; and

"(2) within 5 years prior to the date of the offense, the offender had been convicted of—

"(A) an offense described in subsection (b);

"(B) a State offense that—

"(i) involves a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(ii) is a crime of violence for which the maximum penalty is more than 1 year's imprisonment;

"(C) a Federal or State offense that involves the theft or destruction of property for which the maximum penalty is more than 1 year's imprisonment; or

"(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'criminal street gang' means a group, club, organization, or association of 5 or more persons—

"(A) whose members engage, or have engaged within the past 5 years, in a continuing series of any of the offenses described in subsection (b); and

"(B) whose activities affect interstate or foreign commerce; and

"(2) the term 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent felony or controlled substances felony.".

(b) TECHNICAL AMENDMENT.—The analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following new item:

"26. Criminal street gangs ..... 521".

Subtitle C—Juvenile Penalties

SEC. 521. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNDESIGNATED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh undesignated paragraphs as subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as designated by subsection (a), is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, as designated by subsection (a), is amended to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), a juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless the juvenile has requested in writing upon advice of counsel to be proceeded against as an adult.

"(2) With respect to a juvenile 15 years and older alleged to have committed an act after his or her 15th birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 924 (b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, that such a transfer would be in the interest of justice.

"(3) A juvenile who is alleged to have committed an act after his or her 16th birthday which if committed by an adult would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another, or that, by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844 (d), (e), (f), (h), (i) or 2275 of this title, subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), and (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this subsection or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, as designated by subsection (a), is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end the following new paragraph:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

SEC. 522. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, as amended by section 422, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking "and" at the end of clause (iii) and inserting "or"; and

(3) by adding at the end the following new clause:

"(iv) any act of juvenile delinquency that, if it were committed by an adult, would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

SEC. 523. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following new part:

"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1601. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electric monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse, including alcohol abuse, and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

"SEC. 1602. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I—

"(1) shall prepare the application required under section 1602; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1603. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1601(a) to carry out the projects described in the application submitted by an applicant under section 1602 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1602 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1601(b) for young offenders.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1604. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1602(b).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1601 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy the requirement of the preceding sentence under State statutes.

"SEC. 1605. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated for this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders in the State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State for the purposes specified under section 1601 the portion of those funds that bears the same ratio to the aggregate amount of those funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified under section 1601.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for the fiscal year will not be used by the State, or that a State is not eligible to receive funds under section 1601, the Director shall award such funds to units of local government in the State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1602(a) for the fiscal year for which the projects receive assistance under this part.

"SEC. 1606. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program 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. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1601. Grant authorization.
"Sec. 1602. State applications.
"Sec. 1603. Review of State applications.
"Sec. 1604. Local applications.
"Sec. 1605. Allocation and distribution of funds.
"Sec. 1606. Evaluation.

"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(24) The term 'young offender' means an individual 28 years of age or younger.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1054(a), is amended by adding at the end the following new paragraph:

"(10) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out projects under part P.".

Subtitle D—Other Provisions

SEC. 531. BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) in paragraph (20) by striking "and" at the end;

(2) in paragraph (21) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-olds in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 931 of title 18, United States Code.".

SEC. 532. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by July 1, 1993.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1992 such sums as are necessary to carry out this section.

SEC. 533. CLARIFICATION OF REQUIREMENT THAT ANY PRIOR RECORD OF A JUVENILE BE PRODUCED BEFORE THE COMMENCEMENT OF JUVENILE PROCEEDINGS.

Section 5032(j) of title 18, United States Code, as designated by section 521(a), is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 until".

TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

SEC. 601. TERRORISM CIVIL REMEDY.

(a) REINSTATEMENT OF LAW.—The amendments made by section 132 of the Military Construction Appropriations Act, 1991 (104 Stat. 2250), are repealed effective as of April 10, 1991.

(b) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (a), is amended—

(1) in section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) as section 2332 and amending the heading for section 2332, as redesignated, to read as follows:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332, as redesignated by paragraph (2), the following new section:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin;

"(2) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act; and

"(4) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property."; and

(4) by inserting after section 2332, as redesignated, the following new sections:

"§ 2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902 (i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i), (k), (l), (n), and (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, any civil action under section 2333 against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 may be served in any other district where the defendant resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy that is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of the defendant's whereabouts, shall not be counted for the purposes of the period of limitation prescribed by subsection (a).

"§ 2336. Other limitations

"(a) ACTS OF WAR.—No action shall be maintained under section 2333 for injury or loss by reason of an act of war.

"(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the attorney for the Government may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any objections raised by the Government in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

"(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

"§ 2337. Suits against Government officials

"No action shall be maintained under section 2333 against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within the officer's or employee's official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within the officer's or employee's official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.".

(c) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 113A of title 18, United States Code is amended to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(2) The item relating to chapter 113A in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"113A. Terrorism ..... 2331".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

SEC. 602. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2339. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than 10 years, or both. For purposes of this section, material support or resources includes currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(b)(1), is amended by adding at the end the following new item:

"2339. Providing material support to terrorists.".

SEC. 603. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any property, real or personal—

"(i) used or intended for use in committing or to facilitate the concealment or an escape from the commission of; or

"(ii) constituting or derived from the gross profits or other proceeds obtained from,

a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) Any property, real or personal—

"(A) used or intended for use in committing or to facilitate the concealment or an escape from the commission of; or

"(B) constituting or derived from the gross profits or other proceeds obtained from,

a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).".

SEC. 604. ALIEN WITNESS COOPERATION.

(a) AMENDMENT OF CHAPTER 224 OF TITLE 18.—Chapter 224 of title 18, United States Code, is amended—

(1) by redesignating section 3528 as section 3529; and

(2) by inserting after section 3527 the following new section:

"§ 3528. Aliens; waiver of admission requirements

"(a) IN GENERAL.—Upon authorizing protection to any alien under this chapter, the United States shall provide the alien with appropriate immigration visas and allow the alien to remain in the United States so long as that alien abides by all laws of the United States and guidelines, rules and regulations for protection. The Attorney General may determine that the granting of permanent resident status to such alien is in the public interest and necessary for the safety and protection of such alien without regard to the alien's admissibility under immigration or any other laws and regulations or the failure to comply with such laws and regulations pertaining to admissibility.

"(b) ALIEN WITH FELONY CONVICTIONS.—Notwithstanding any other provision of this chapter, an alien who would not be excluded because of felony convictions shall be considered for permanent residence on a conditional basis for a period of 2 years. Upon a showing that the alien is still being provided protection, or that protection remains available to the alien in accordance with this chapter, or that the alien is still cooperating with the Government and has maintained good moral character, the Attorney General shall remove the conditional basis of the status effective as of the second anniversary of the alien's obtaining the status of admission for permanent residence. Permanent resident status shall not be granted to an alien who would be excluded because of felony convictions unless the Attorney General determines, pursuant to regulations which shall be prescribed by the Attorney General, that granting permanent residence status to the alien is necessary in the interests of justice and comports with safety of the community.

"(c) LIMIT ON NUMBER OF ALIENS.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed 200 persons in any fiscal year. The decision to grant or deny permanent resident status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.

"(d) DEFINITIONS.—As used in this section, the terms 'alien' and 'United States' have the meanings stated in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 224 of title 18, United States Code, is amended by striking the item relating to section 3528 and inserting the following:

"3528. Aliens; waiver of admission requirements.

"3529. Definition.".

SEC. 605. TERRITORIAL SEA EXTENDING TO 12 MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 606. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code is amended—

(1) in subsection (a), by inserting after "title" the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, territory, possession, or district"; and

(2) by inserting at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of the State, territory, possession, or district within which it would lie if the boundaries of the State, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 607. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code, is amended by inserting at the end the following new paragraph:

"(8) Any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 608. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.

Section 2332 of title 18, United States Code, as redesignated by section 601(a)(2), is amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting "20"; and

(B) in paragraph (3) by striking "three" and inserting "10"; and

(2) in subsection (c) by striking "five" and inserting "10".

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in each of the fiscal years 1992, 1993, and 1994, in addition to any other amounts specified in appropriations Acts, for counterterrorist operations and programs:

(1) for the Federal Bureau of Investigation, $25,000,000;

(2) for the Department of State, $10,000,000;

(3) for the United States Customs Service, $7,500,000;

(4) for the United States Secret Service, $2,500,000;

(5) for the Bureau of Alcohol, Tobacco, and Firearms, $2,500,000;

(6) for the Federal Aviation Administration, $2,500,000; and

(7) for grants to State and local law enforcement agencies, to be administered by the Office of Justice Programs in the Department of Justice, in consultation with the Federal Bureau of Investigation, $25,000,000.

SEC. 610. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) INTERNATIONAL ECONOMIC EMERGENCY POWERS ACT.—(1) Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(2) Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting "$1,000,000".

(b) SECTION 1541 OF TITLE 18.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "5 years".

(c) CHAPTER 75 OF TITLE 18.—Sections 1542, 1543, 1544, and 1546 of title 18, United States Code, are each amended—

(1) by striking "$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "10 years".

(d) SECTION 1545 OF TITLE 18.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "10 years".

SEC. 611. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than 3 levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 612. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following new section:

"§ 3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32, 36, 112, 351, 1116, 1203, 1361, 1751, 2280, 2281, 2332, 2339A, or 2340A of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1572 (i), (j), (k), (l), and (n)), unless the indictment is found or the information is instituted within 10 years next after such offense shall have been committed.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3285 the following new item:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 613. INTERNATIONAL PARENTAL KIDNAPPING.

(a) IN GENERAL.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1204. International parental kidnapping

"(a) OFFENSE.—Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be

fined under this title, imprisoned not more than 3 years, or both.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) RULE OF CONSTRUCTION.—This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 55 of title 18, United States Code, is amended by adding at the end the following new item:

"1204. International parental kidnapping.".

SEC. 614. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

SEC. 615. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 141(a), is amended by adding at the end the following new section:

"§ 1120. Foreign murder of United States nationals

"(a) OFFENSE.—Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

"(b) APPROVAL OF PROSECUTION.—No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) CRITERIA FOR APPROVAL.—No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) ASSISTANCE FROM OTHER AGENCIES.—In the course of the enforcement of this section and notwithstanding any other law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1120".

(2) The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 141(b), is amended by adding at the end the following new item:

"1120. Foreign murder of United States nationals.".

SEC. 616. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "The provisions of this chapter"; and

(2) by adding at the end the following new subsections:

"(b) SURRENDER WITHOUT REGARD TO EXISTENCE OF EXTRADITION TREATY.—This chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies in writing that—

"(1) evidence has been presented by the foreign government that indicates that, if the offenses had been committed in the United States, they would constitute crimes of violence (as defined under section 16); and

"(2) the offenses charged are not of a political nature.

"(c) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

SEC. 617. GAMBLING DEVICES ON UNITED STATES SHIPS.

Section 5 of the Act of January 2, 1951 (commonly known as the "Johnson Act") (15 U.S.C. 1175), is amended—

(1) by inserting "(a) IN GENERAL.—" before "It shall be unlawful"; and

(2) by adding at the end the following new subsection:

"(b) APPLICATION OF SUBSECTION (a).—

"(1) EXCEPTION.—Except as provided in paragraph (2), subsection (a) does not apply to the repair, transportation, use, or possession of a gambling device on a vessel documented under chapter 121 of title 46, United States Code, when the vessel is on a voyage—

"(A) on the high seas; or

"(B) on waters that are within the admiralty and maritime jurisdiction of the United States but out of the jurisdiction of any State.

"(2) VOYAGES AND SEGMENTS BEGINNING AND ENDING IN THE SAME STATE OR POSSESSION.—The exception stated in paragraph (1) does not apply to the repair, transportation, possession, or use of a gambling device on a vessel that is on a voyage or segment of a voyage—

"(A) that begins and ends in the same State or possession of the United States,

"(B) during which the vessel does not make an intervening stop in another State or possession of the United States or a foreign country,

if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute that prohibits such repair, transportation, possession, or use.".

SEC. 618. FBI ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—

"(1) NAME, ADDRESS, AND LENGTH OF SERVICE ONLY.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, and length of service of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of the provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section) under circumstances giving reason to believe that the communication concerned international terrorism (as defined in that section) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.

"(2) NAME, ADDRESS, LENGTH OF SERVICE, AND TOLL BILLING RECORDS.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, length of service, and toll billing records of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section).".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

SEC. 701. DEFINITION OF SEXUAL ACT FOR VICTIMS BELOW 16 YEARS OF AGE.

Section 2246(2) of title 18, United States Code, as redesignated by section 137(a)(1), is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "and" at the end of subparagraph (C) and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or to arouse or gratify the sexual desire of, any person;".

SEC. 702. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) PENALTY.—Chapter 109A of title 18, United States Code, as amended by section 137(a), is amended—

(1) by redesignating section 2246 as section 2247; and

(2) by inserting after section 2245 the following new section:

"§ 2246. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, as amended by section 137(b), is amended by striking the item relating to section 2246 and inserting the following:

"2246. Penalties for subsequent offenses.
"2247. Definitions for chapter.".

SEC. 703. RESTITUTION FOR VICTIMS OF SEX OFFENSES.

Section 3663(b)(2) of title 18, United States Code, is amended by inserting "or an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim".

SEC. 704. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL ABUSE CASES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, as amended by section 702(a), is amended—

(1) by redesignating section 2247 as section 2248; and

(2) by inserting after section 2246 the following new section:

"§ 2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed 6 months and 12 months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as is feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed 6 months and 12 months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend the sentencing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that the offender was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, as amended by section 702(b), is amended by striking the item relating to section 2247 and inserting the following:

"2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.
"2248. Definitions for chapter.".

SEC. 705. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by inserting before the period at the end "and the cost of up to 2 tests of the victim for the human immunodeficiency virus during the 12 months following the assault".

Subtitle B—Victims' Rights

SEC. 711. RESTITUTION AMENDMENTS.

Section 3663(b) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(b) SUSPENSION OF FEDERAL BENEFITS.—Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection—

"(A) the term 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 712. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1) by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before ", or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code; and

"(2) 'victim' means an individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of 18 years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present.".

SEC. 713. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

SEC. 714. MANDATORY RESTITUTION AND OTHER PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may order" and inserting "shall order"; and

(B) by adding at the end the following new paragraph:

"(4) In addition to ordering restitution of the victim of the offense of which a defend-

ant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (h), and (i), as redesignated by section 711(b)(1);

(6) by redesignating subsection (g), as added by section 711(b)(2), as subsection (d); and

(7) by adding at the end the following new subsections:

"(e)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(f) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(g) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(h)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(i) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(j) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(k) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(l) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive restitution, in the same manner as a judgment in a civil action.

"(m) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

Subtitle C—Crime Victims Fund

SEC. 721. CRIME VICTIMS FUND.

(a) ELIMINATION OF FUND CEILINGS AND SUNSET PROVISION.—Section 1402 (c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is repealed.

(b) ALLOCATIONS.—

(1) GENERALLY.—Section 1402(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(2)) is amended to read as follows:

"(2) The Fund shall be available as follows:

"(A) Of the total deposited in the Fund during a particular fiscal year—

"(i) the first $10,000,000 shall be available for grants under section 1404A;

"(ii) the next sums deposited, up to the reserved portion (as described in subparagraph (C)), shall be made available to the judicial branch for administrative costs to carry out the functions of that branch under sections 3611 and 3612 of title 18, United States Code; and

"(iii) of the sums remaining after the allocations under clauses (i) and (ii)—

"(I) 4 percent shall be available for grants under section 1404(c)(1); and

"(II) 96 percent shall be available in equal amounts for grants under sections 1403 and 1404(a).

"(B) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000.

"(C) The reserved portion referred to in subparagraph (A) is $6,200,000 in each of fiscal years 1992 through 1995 and $3,000,000 in each fiscal year thereafter.".

(2) CONFORMING CROSS-REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(iv)" and inserting "(i)".

(c) AMOUNTS AWARDED AND UNSPENT.—Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Except as provided in paragraph (2), any" and inserting "Any";

(B) by striking "succeeding fiscal year" and inserting "2 succeeding fiscal years";

(C) by striking "which year" and inserting "which period"; and

(D) by striking "the general fund of the Treasury" and inserting "the Fund"; and

(2) by striking paragraph (2).

SEC. 722. PERCENTAGE CHANGE IN CRIME VICTIM COMPENSATION FORMULA.

Section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "40 percent" and inserting "45 percent".

SEC. 723. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The last sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) The Director may permit not more than 5 percent of a grant made under this section to be used for the administration of the crime victim compensation program receiving the grant.".

SEC. 724. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 725. USE OF UNSPENT SECTION 1403 MONEY.

Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(1)) is amended—

(1) by striking "or for the purpose of grants under section 1403 but not used for that purpose,"; and

(2) by adding at the end the following: "The Director, in the Director's discretion, may use amounts made available under section 1402(d)(2) for the purposes of grants under section 1403 but not used for that purpose, for grants under this subsection, either in the year such amounts are not so used, or the next year.".

SEC. 726. UNDERSERVED VICTIMS.

Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by adding at the end the following new paragraph:

"(6) In making the certification required by paragraph (2)(B), the chief executive shall give particular attention to children who are victims of violent street crime.".

SEC. 727. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 728. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(A)), as amended by section 726, is amended—

(1) in paragraph (1) by inserting ", except as provided in paragraph (7)" after "programs"; and

(2) by adding at the end the following new paragraph:

"(7) The Director may permit not more than 5 percent of sums provided under this subsection to be used by the chief executive of each State for the administration of such sums.".

SEC. 729. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended—

(1) by striking "December 31, 1990" and inserting "May 31, 1993"; and

(2) by striking "December 31" the second place it appears and inserting "May 31".

SEC. 730. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 731. DELAYED EFFECTIVE DATE FOR CERTAIN PROVISIONS.

Sections 721(b), 722, 723, and 728, and the amendments made by those sections, shall take effect with respect to the first fiscal year that begins after the date of enactment of this Act for which the Director certifies that there are sufficient sums in the Victim Assistance Fund and the Victims Compensation Fund, as of the end of the previous fiscal year, to make the allocations required under such sections and amendments without reducing the then current funding levels of programs supported by such Funds.

Subtitle D—National Child Protection Act

SEC. 741. SHORT TITLE.

This subtitle may be cited as the "National Child Protection Act of 1992".

SEC. 742. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) more than 2,500,000 reports of suspected child abuse and neglect are made each year, and increases have occurred in recent years in the abuse of children by persons who have previously committed crimes of child abuse or other serious crimes;

(2) although the great majority of child care providers are caring and dedicated professionals, child abusers and others who harm or prey on children frequently seek employment in or volunteer for positions that give them access to children;

(3) nearly 6,000,000 children received day care in 1990, and this total is growing rapidly to an estimated 8,000,000 children by 1995;

(4) exposure to child abusers and others who harm or prey on children is harmful to the physical and emotional well-being of children;

(5) there is no reliable, centralized national source through which child care organizations may obtain the benefit of a nationwide criminal background check on persons who provide or seek to provide child care;

(6) some States maintain automated criminal background files and provide criminal history information to child care organizations on persons who provide or seek to provide child care; and

(7) because State and national criminal justice databases are inadequate to permit effective national background checks, persons convicted of crimes of child abuse or other serious crimes may gain employment at a child care organization.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes to the Department of Justice and other interested parties.

SEC. 743. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this Act;

(2) the term "background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance;

(3) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(4) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(5) the term "child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(6) the term "child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, legal residence address, a brief description of the child abuse crime or offenses for which the person is under indictment or has been convicted, and any other information that the Attorney General determines may be useful in identifying persons under indict-

ment for, or convicted of, a child abuse crime;

(7) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children;

(8) the term "domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State;

(9) the term "exploitation" means child pornography and child prostitution;

(10) the term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition;

(11) the term "national criminal background check system" means the system of information and identification relating to convicted and accused child abuse offenders that is maintained by the Attorney General under this subtitle;

(12) the term "negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child;

(13) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm;

(14) the term "provider" means—

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(15) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services;

(16) the term "sex crime" means an act of sexual abuse that is a criminal act;

(17) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children; and

(18) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 744. REPORTING BY THE STATES.

(a) IN GENERAL.—An authorized agency of a State shall report child abuse crime information to the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS TO THE NATIONAL CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis to the national criminal background check system;

(B) establish guidelines for the reporting of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this subtitle; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of child abuse crime case dispositions in computerized criminal history files for all child abuse crime cases in which there has been an entry of activity within the last 5 years; and

(B) continue to maintain such a system.

(c) EXCHANGE OF INFORMATION.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of information and technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim of a crime.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 743, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 745. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and other criminal justice recordkeeping systems and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), including procedures for carrying out the purposes of this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime;

(ii) is not certain to include arrest information; and

(iii) should not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a)—

(i) at a minimum, state whether the background check information set forth in the identification document required under subparagraph (A) is complete and accurate; and

(ii) be limited to the information reasonably required to accomplish the purposes of this subtitle;

(F) that no qualified entity may take action adverse to a provider, except that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care, on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge;

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the providers;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check; and

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this subtitle, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this subtitle and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) RECORDS EXCHANGE.—The Attorney General may exchange Federal Bureau of Investigation identification records with authorized agencies for purposes of background checks under subsection (a) and may by regulation authorize further dissemination of such records by authorized agencies for such purposes.

(e) REGULATIONS.—(1) The Attorney General shall by regulation prescribe such other measures as may be required to carry out the purposes of this subtitle, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

SEC. 746. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 744 of the National Child Protection Act of 1992 with the Attorney General for the purpose of implementing the National Child Protection Act of 1992.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history records in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1992, 1993, and 1994.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 744 of this Act.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

SEC. 751. SHORT TITLE.

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

SEC. 752. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(1) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(c) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months' imprisonment.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints for child care services providers.

SEC. 753. STATE COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this subtitle.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with this subtitle 3 years after the date of enactment of this Act shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

Subtitle F—Domestic Violence

SEC. 761. DOMESTIC VIOLENCE GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 523(a), is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following new part:

"Part Q—Domestic Violence Intervention

"SEC. 1701. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance may make grants to 10 States for the purpose of assisting States in implementing a civil and criminal response to domestic violence.

"SEC. 1702. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to encourage increased prosecutions for domestic violence crimes;

"(2) to report more accurately the incidences of domestic violence;

"(3) to facilitate arrests and aggressive prosecution policies;

"(4) to provide legal advocacy services for victims of domestic violence; and

"(5) to improve the knowledge of health professionals regarding domestic violence and facilitate cooperation between health professionals, social service providers, and law enforcement personnel to better assist victims of domestic violence.

"SEC. 1703. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—An application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 1702;

"(2) a description of the programs already in place to combat domestic violence;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information, if available, in such form and containing such information that the Director may require regarding domestic violence within that State.

"(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

"(1) a description of the domestic violence problem within the State targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the State to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill those gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce domestic violence.

"SEC. 1704. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) STATE MAXIMUM.—No State shall receive more than $2,500,000 under this part for any fiscal year.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 1703(c).

"SEC. 1705. AWARD OF GRANTS.

"The Director shall consider the following factors in awarding grants to States and shall give preference to States that have—

"(1) a law or policy that requires the arrest of a person who police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated a civil protection order;

"(2) a law or policy that discourages dual arrests;

"(3) laws or statewide prosecution policies that authorize and encourage prosecutors to pursue domestic violence cases in which a criminal case can be proved, including proceeding without the active involvement of the victim if necessary;

"(4) statewide guidelines for judges that—

"(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only 1 spouse has sought a restraining or protective order;

"(B) require any history of abuse against a child or against a parent to be considered when making child custody determinations; and

"(C) require judicial training on domestic violence and related civil and criminal court issues;

"(5) policies that provide for the coordination of court and legal victim advocacy services; and

"(6) policies that make existing remedies to domestic violence easily available to victims of domestic violence, including elimination of court fees and the provision of simple court forms.

"SEC. 1706. REPORTS.

"(a) REPORT TO DIRECTOR.—Each State that receives funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 1703(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients;

"(2) a compilation of statistical information submitted by applicants under section 1703(b)(4); and

"(3) an evaluation of programs established under this part.

"SEC. 1707. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'domestic violence' means any act or threatened act of violence, including any forceful detention of an individual, that—

"(A) results or threatens to result in physical injury; and

"(B) is committed by an individual against another individual (including an elderly individual) to whom the individual is or was related by blood or marriage or otherwise legally related or with whom the individual is or was lawfully residing.".

(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. 3711 et seq.), as amended by section 523(b), is amended by striking the matter relating to part Q and inserting the following:

"PART Q—DOMESTIC VIOLENCE INTERVENTION

"Sec. 1701. Grant authorization.
"Sec. 1702. Use of funds.
"Sec. 1703. Applications.
"Sec. 1704. Allocation of funds; limitations on grants.
"Sec. 1705. Award of grants.
"Sec. 1706. Reports.
"Sec. 1707. Definitions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 523(d), is amended by adding at the end the following new paragraph:

"(11) There are authorized to be appropriated $25,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out projects under part Q.".

SEC. 762. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of battered women's syndrome and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

Subtitle G—Other Provisions

SEC. 771. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.

(a) FINDINGS.—The Congress finds that—

(1) children are our most important and yet most fragile human resource;

(2) too many young people are induced or forced into performing criminal acts by adults;

(3) the greatest effort must be taken to eliminate crime in our neighborhoods and our schools;

(4) an equal resolve must be taken to punish individuals who attempt to use America's youth as pawns in their criminal enterprises; and

(5) adequate penalties can be implemented to eradicate the exploitation of minors to commit offenses.

(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 21. Inducement of minor to commit an offense

"(a) IN GENERAL.—Except to the extent that a greater minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed.

"(b) LIMITATION.—In the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(c) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as a circumstance in aggravation the severity of the offense sought by the adult.

"(d) DEFINITION.—For the purposes of this section the term 'minor' means a person less than 18 years of age.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Inducement of minor to commit an offense.".

SEC. 772. DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE.

Section 438(a)(4)(B)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records maintained by a law enforcement unit of the education agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

SEC. 773. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Education, shall, by contract with an appropriate entity with expertise in college campus security, provide for a national baseline study to research the effectiveness of campus sexual assault policies for institutions of postsecondary education.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of sexual assault occurring on college and university campuses, and to whom the allegations are reported (including campus authorities, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to campus authorities which are reported to criminal authorities;

(3) the percentage of campus sexual assault allegations compared to noncampus sexual assault allegations which result in eventual criminal prosecution;

(4) State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of campus policies and practices in protecting the legal rights and interests of sexual assault victims and the accused, including consideration of—

(A) practices that might discourage the reporting of sexual assaults to local criminal authorities, or result in any form of obstruction of justice, and thus undermine the public interest in prosecuting perpetrators of sexual assault; and

(B) the ability of campus disciplinary hearings to properly address allegations of sexual assault;

(6) whether colleges and universities take adequate measures to ensure that victims are free of unwanted contact with alleged assailants;

(7) the grounds on which colleges and universities are sued in civil court regarding sexual assaults, the resolution of these cases, and measures that can be taken to prevent future lawsuits;

(8) the ways in which colleges and universities respond to allegations of sexual assault, including an assessment of which programs work the best;

(9) recommendations to redress concerns raised in the report; and

(10) any other issues or questions the Attorney General, with the concurrence of the Secretary of Education, deems to be appropriate to the study.

(c) REPORT.—The Secretary of Education shall review the results of the research required by this section and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate by September 1, 1995, coordinating that report with the report and dissemination required under section 485(f)(4) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(4)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $200,000 for the contract required by subsection (a).

SEC. 774. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

TITLE VIII—EQUAL JUSTICE ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Equal Justice Act".

SEC. 802. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.

(a) GENERAL RULE.—The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition or execution of the death penalty or any other penalty.

(b) DEFINITIONS.—For purposes of this title—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) the term "State" has the meaning given in section 513 of title 18, United States Code; and

(3) the term "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

SEC. 803. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial prejudice or bias in statements before the jury.

SEC. 804. FEDERAL CAPITAL CASES.

(a) JURY INSTRUCTIONS AND CERTIFICATION.—In a prosecution for an offense against the United States in which a sentence of death is sought, and in which the capital sentencing determination is to be made by a jury, the judge shall instruct the jury that it is not to be influenced by prejudice or bias relating to the race or color of the defendant or victim in considering whether a sentence of death is justified, and that the jury is not to recommend the imposition of a sentence of death unless it has concluded that it would recommend the same sentence for such a crime regardless of the race or color of the defendant or victim. Upon the return of a recommendation of a sentence of death, the jury shall also return a certificate, signed by each juror, that the juror's individual decision was not affected by prejudice or bias relating to the race or color of the defendant or victim, and that the individual juror would have made the same recommendation regardless of the race or color of the defendant or victim.

(b) RACIALLY MOTIVATED KILLINGS.—In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or

bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

SEC. 805. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) SECTION 241.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) SECTION 242.—Section 242 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in", and by striking "such inhabitant" and inserting "such person".

TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

SEC. 901. SHORT TITLE.

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1992".

SEC. 902. GRANTS TO STATE AND LOCAL AGENCIES.

Section 1001(a)(5) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

SEC. 903. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)(1)) is amended by striking "1991" and inserting "1992".

SEC. 904. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(f)) is amended by striking "No" and inserting "Except for grants awarded to State and local governments for the purpose of participating in multi-jurisdictional drug task forces, no".

Subtitle B—Retired Public Safety Officer Death Benefit

SEC. 911. RETIRED PUBLIC SAFETY OFFICER DEATH BENEFIT.

(a) PAYMENTS.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsection (a) by inserting "or a retired public safety officer has died as the direct and proximate result of a personal injury sustained while responding to a fire, rescue, or police emergency" after "line of duty";

(2) in subsection (b) by inserting "or a retired public safety officer has become permanently and totally disabled as the direct result of a catastrophic injury sustained while responding to a fire, rescue, or police emergency" after "line of duty"; and

(3) in subsections (c), (i), and (j) by inserting "or a retired public safety officer" after "public safety officer" each place it appears.

(b) LIMITATIONS.—Section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) is amended—

(1) in paragraph (1) by striking "the public safety officer or by such officer's intention" and inserting "the public safety officer or the retired public safety officer who had the intention";

(2) in paragraph (2) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer"; and

(3) in paragraph (3) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer".

(c) NATIONAL PROGRAM.—Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a-1) is amended by inserting before the period "or retired public safety officers who have died while responding to a fire, rescue, or police emergency".

(d) DEFINITIONS.—Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) by striking "and" after paragraph (6);

(2) by inserting "; and" at the end of paragraph (7); and

(3) by adding at the end the following new paragraph:

"(8) 'retired public safety officer' means a former public safety officer who has served a sufficient period of time in such capacity to become vested in the retirement system of a public agency with which the officer was employed and who retired from such agency in good standing.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to death or injuries occurring after the date of enactment of this Act.

(f) IRWIN RUTMAN PROGRAM.—Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended by inserting before section 1201 the following new section:

"NAME OF PROGRAM

"SEC. 1200. The program established under this part shall be known as the 'Irwin Rutman Retired Safety Officer's Benefit Program'.".

Subtitle C—Study on Police Officers' Rights

SEC. 921. STUDY ON POLICE OFFICERS' RIGHTS.

The Attorney General, through the National Institute of Justice, shall conduct a study of the procedures followed in internal, noncriminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly and effectively. The study shall examine the adequacy of the rights available to law enforcement officers and members of the public in cases involving the performance of a law enforcement officer, including—

(1) notice;

(2) conduct of questioning;

(3) counsel;

(4) hearings;

(5) appeal; and

(6) sanctions.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to the Congress a report on the results of the study, along with findings and recommendations on strategies to guarantee fair and effective internal affairs investigations.

Subtitle D—Community Policing

CHAPTER 1—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 931. SHORT TITLE.

This chapter may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 932. PURPOSES.

The purposes of this chapter are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 933. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subchapter A and the Law Enforcement Scholarship program established in subchapter B and shall have authority to promulgate regulations to implement this subtitle.

SEC. 934. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subchapter A or the Law Enforcement Scholarship program under subchapter B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this chapter;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subchapter A, meet the requirements of section 940; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subchapter B, meet the requirements of section 948.

Subchapter A—Police Corps Program

SEC. 935. DEFINITIONS.

For the purposes of this subchapter—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree, including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 937;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 940.

SEC. 936. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(3) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to pay educational expenses incurred while in attendance at an institution of higher education—

(1) in a course of education leading to the award of a baccalaureate degree, including attendance at such an institution that does not itself award such a degree if the courses taken there are acceptable for credit toward a degree at an institution that does award such a degree, and including, in the discretion of the Director, such expenses incurred prior to enrollment in the Police Corps program; and

(2) for graduate and professional study.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 938, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 938; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (C) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 938.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section, the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 937. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to the State Police Corps plan, including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this Act, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 939, and such a participant shall be subject to the same benefits and obligations under this chapter as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 939, such as for purposes of

determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this subchapter that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, an institution of higher education—

(A) as a full-time student in an undergraduate program leading to the award of a baccalaureate degree; or

(B) for purposes of taking a graduate or professional course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 938. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subchapter.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 940 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 939. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 938 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 936, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 936(d)(1)(C) shall not apply.

(d) LAYOFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 936, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 936(d)(1)(C) shall not apply.

SEC. 940. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 937;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since July 10, 1991; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the

police force of which the participant is a member.

SEC. 941. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subchapter $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

Subchapter B—Law Enforcement Scholarship Program

SEC. 942. SHORT TITLE.

This subchapter may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 943. DEFINITIONS.

As used in this subchapter—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 944. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 951, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this chapter in the State compared to the shortage of law enforcement personnel and the need for assistance under this subchapter in all States.

SEC. 945. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—Each State receiving an allotment pursuant to section 944 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State receiving an allotment under section 944 the Federal share of the cost of the activities described in the application submitted pursuant to section 948.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subchapter shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 944 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this subchapter.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subchapter and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subchapter.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 944 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 944 shall ensure that each scholarship recipient under this subchapter be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this subchapter shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 946. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this chapter shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subchapter may use such scholarship for educational expenses at any institution of higher education.

SEC. 947. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subchapter if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subchapter.

SEC. 948. STATE APPLICATION.

Each State desiring an allotment under section 944 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subchapter is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subchapter;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subchapter and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subchapter;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subchapter;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 949. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subchapter shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subchapter, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 950. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this subchapter shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this chapter in accordance with such terms and conditions as the Director shall

prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this chapter may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subchapter.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.— Except as provided in paragraph (2), each individual awarded a scholarship under this subchapter shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subchapter shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 951. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subchapter.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 945(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 945(a)(1)(B) and (2).

Subchapter C—Reports

SEC. 952. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subchapter A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subchapter B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subchapter B; and

(5) describe the progress of the programs authorized by this chapter and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subchapter B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

CHAPTER 2—COP-ON-THE-BEAT GRANTS

SEC. 961. SHORT TITLE.

This chapter may be cited as "The Cop-on-the-Beat Act of 1992".

SEC. 962. COP-ON-THE-BEAT GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 761(a), is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following new part:

"PART R—COP-ON-THE-BEAT GRANTS

"SEC. 1801. GRANT AUTHORIZATION.

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups to establish or expand cooperative efforts between police and a community for the purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities that have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in the community.

"SEC. 1802. APPLICATION.

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In an application under paragraph (1), a single office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1801;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1803. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1802(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1804. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1802(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent

crime after funding under this part is no longer available.

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 1805. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1802(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients; and

"(2) an evaluation of projects established under this part.

"SEC. 1806. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"(2) The term 'Director' means the Director of the Bureau of Justice Assistance.".

(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. 3711 et seq.), as amended by section 761(b), is amended by striking the matter relating to part R and inserting the following new part:

"PART R—COP-ON-THE-BEAT GRANTS

"Sec. 1801. Grant authorization.
"Sec. 1802. Application.
"Sec. 1803. Allocation of funds; limitation on grants.
"Sec. 1804. Award of grants.
"Sec. 1805. Reports.
"Sec. 1806. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 761(c), is amended by adding at the end the following new paragraph:

"(12) There are authorized to be appropriated $150,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out projects under part R.".

Subtitle E—Rural Crime Prevention Strategy

SEC. 971. FINDINGS.

The Congress makes the following findings:

(1) The traditional supportive roles of the family, church, school, and community have declined in importance as a positive social factor influencing the prevention and control of crime in rural areas. As a result in recent years rural areas have experienced a marked increase in crime rates. This increase is taking its toll on rural law enforcement practitioners who are already encumbered by numerous characteristics that are unique to their rural circumstances.

(2) Compounding the increase in crime rates, rural police unlike their urban counterparts, are likely to encounter a multitude of nontraditional police tasks such as fire and railroad emergencies, search and rescue missions, animal control problems, livestock theft, wildlife enforcement, illegal distilleries, illegal crop farming and drug manufacturing, rural drug trafficking, and toxic dumping.

(3) These problems are further exacerbated by the rural officer's distinct disadvantage with respect to the lack of adequate training to manage these varied assignments, the low degree of specialization of job tasks, unique job stress factors, and inadequate data resources. Inadequate rural crime statistics and data analysis capabilities further frustrate the rural police organization's ability to cope with the nature, extent, and trends of rural crime.

(4) Rural law enforcement agencies are at a critical juncture, and strategic planning and action are imperative. The Domestic Chemical Action Group convened by the National Institute of Justice in October 1990 has recommended that rural police receive training in various safety issues related to the identification, investigation, and seizure of illicit drug and chemical laboratories located in rural areas. Without such specialized training officials will face a high probability of explosions endangering police personnel and the community. National Institute of Justice sponsored research of environmental crime in major urban areas, including Los Angeles, has revealed the lack of police training in the identification, investigation, and clean-up of toxic and hazardous waste areas. It can be said with certainty that this recognized need for hazardous materials training is equally critical for rural police organizations.

SEC. 972. STRATEGY TO ADDRESS RURAL CRIME.

The purpose of this subtitle is to address the growing problems of rural crime in a systematic and effective manner with a program of practical and focused research, development, and dissemination designed to assist States and units of local government in rural areas throughout the country in implementing specific programs and strategies which offer a high probability of improving the functioning of their criminal justice systems.

SEC. 973. NATIONAL INSTITUTE OF JUSTICE NATIONAL ASSESSMENT.

(a) IN GENERAL.—The Director of the National Institute of Justice (referred to in this subtitle as the "Director") shall conduct a national assessment of the nature and extent of rural crime in the United States, the needs of law enforcement and criminal justice professionals in rural States and communities, and promising strategies to respond effectively to those challenges, including—

(1) the problem of clandestine drug laboratories; changing patterns in their location and operation; safety and liability issues for both law enforcement officers and the community in the identification, investigation, seizure, and clean-up of clandestine laboratories;

(2) other environmental crimes, such as the dumping of hazardous and toxic wastes; the pollution of streams, rivers, and ground water; and access of rural communities to the expertise necessary to successfully identify, investigate, and prosecute such crimes;

(3) the cultivation of illegal crops, such as marijuana, including changing patterns in location and techniques for identification, investigation, and destruction;

(4) the problems of drug and alcohol abuse in rural communities, including law enforcement and criminal justice response and access to treatment services;

(5) the problems of family violence and child abuse, including law enforcement and criminal justice response and access to services for victims of such crimes;

(6) the problems of juvenile delinquency and vandalism as they affect rural communities;

(7) the access of law enforcement and criminal justice professionals in rural communities to the services of crime laboratories, the Automated Fingerprint Identification System, and other technological support;

(8) the access of law enforcement and criminal justice professionals in rural communities to professional training and development and the identification of models for the delivery of such training; and

(9) the special problems of drug abuse in jurisdictions with populations of 50,000 or less.

(b) FINAL REPORT.—The Director shall submit the national assessment to the President and Congress not later than 12 months after the date of enactment of this Act.

(c) DISSEMINATION OF REPORT.—Based on the results of the national assessment and analysis of successful and promising strategies in these areas, the Director shall disseminate the results not only through reports, publications, and clearinghouse services, but also through programs of training and technical assistance, designed to address the realities and challenges of rural law enforcement.

SEC. 974. PILOT PROGRAMS.

(a) IN GENERAL.—The Director may make grants to local law enforcement agencies for pilot programs and field tests of particularly promising strategies and models, which could then serve as the basis for demonstration and education programs under the Bureau of Justice Assistance Discretionary Grant Program.

(b) TYPES OF PROGRAMS.—Pilot programs funded under this section may include—

(1) programs to develop and demonstrate new or improved approaches or techniques for rural criminal justice systems;

(2) programs of training and technical assistance to meet the needs of rural law enforcement and criminal justice professionals including safety;

(3) a rural initiative to study and improve the response to traffic safety problems and drug interdiction;

(4) an ongoing program to assist law enforcement professionals in dealing with the hazards of clandestine drug laboratories;

(5) victim assistance information to assist departments in beginning and maintaining strong programs to assist victims and witnesses of crime;

(6) emergency preparedness information for community groups concerned about disaster preparedness on the family and community level; and

(7) a program targeted at communities of less than 50,000 stressing the need for production of public safety through extensive partnership efforts between law enforcement, other local government agencies, businesses, schools, community and social organizations, and citizens.

SEC. 975. FUNDING.

There are authorized to be appropriated $5,000,000 to carry out the national assessment and pilot programs required by this subtitle.

Subtitle F—National Commission to Support Law Enforcement

SEC. 981. SHORT TITLE.

This subtitle may be cited as the "National Commission to Support Law Enforcement Act.".

SEC. 982. FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review 25 years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 983. ESTABLISHMENT OF COMMISSION.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this subtitle as the "Commission").

SEC. 984. DUTIES.

(a) IN GENERAL.—The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 985. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from among national law enforcement officers, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) One shall be appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate.

(B) One shall be appointed by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(4) Two Members of the House of Representatives, appointed by the Speaker and the Minority Leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the Majority Leader and the Minority Leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

SEC. 986. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this subtitle.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 987. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this subtitle, hold hearings, sit and act at the time and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this subtitle. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 988. REPORT.

Not later than the expiration of the 18-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 989. TERMINATION.

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 988.

SEC. 989A. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (42 U.S.C. 3721 note) and section 211(B) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (42 U.S.C. 3721 note; 104 Stat. 2122) are repealed.

Subtitle G—Other Provisions

SEC. 991. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, aggressive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1992, 1993, and 1994.

SEC. 992. AUTHORIZATION OF APPROPRIATIONS FOR BUREAU OF JUSTICE ASSISTANCE DISCRETIONARY GRANTS.

Section 1001(a)(6) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(6)), as amended by section 1054, is amended to read as follows:

"(7) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out chapter B of subpart 2 of part E of this title.".

SEC. 993. LAW ENFORCEMENT FAMILY SUPPORT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 962(a), is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as 2001; and

(3) by inserting after part R the following new part:

"PART S—FAMILY SUPPORT

"SEC. 1901. DUTIES OF DIRECTOR.

"The Director shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies

within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Bureau and by grant recipients.

"SEC. 1902. GENERAL AUTHORIZATION.

"The Director is authorized to make grants to States and local law enforcement agencies to provide family support services to law enforcement personnel.

"SEC. 1903. USES OF FUNDS.

"(a) IN GENERAL.—A State or local law enforcement agency that receives a grant under this part shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency that receives funds under this part shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency that receives funds under this part may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

"SEC. 1904. APPLICATIONS.

"A law enforcement agency desiring to receive a grant under this part shall submit to the Director an application at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Director or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this part.

"SEC. 1905. AWARD OF GRANTS; LIMITATION.

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Director shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Director may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency for a period not to exceed 5 years. In any application from a State or local law enforcement agency for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Director shall review the progress made toward meeting the objectives of the program. The Director may refuse to award a grant if the Director finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 10 percent of grant funds received by a State or a local law enforcement agency may be used for administrative purposes.

"SEC. 1906. DISCRETIONARY RESEARCH GRANTS.

"The Director may reserve 10 percent of funds to award research grants to a State or local law enforcement agency to study issues of importance in the law enforcement field as determined by the Director.

"SEC. 1907. REPORTS.

"(a) REPORT FROM GRANT RECIPIENTS.—A State or local law enforcement agency that receives a grant under this part shall submit to the Director an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"(b) REPORT FROM DIRECTOR.—(1) The Director shall submit to the Congress a report not later than March 31 of each fiscal year.

"(2) A report under paragraph (1) shall contain—

"(A) a description of the types of projects developed or improved through funds received under this part;

"(B) a description of exemplary projects and activities developed;

"(C) a designation of the family relationship to the law enforcement personnel of individuals served; and

"(D) a statement of the number of individuals served in each location and throughout the country.

"SEC. 1908. DEFINITIONS.

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(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. 3711 et seq.), as amended by section 962(b), is amended by striking the matter relating to part S and inserting the following:

"PART S—FAMILY SUPPORT

"Sec. 1901. Duties of director.
"Sec. 1902. General authorization.
"Sec. 1903. Uses of funds.
"Sec. 1904. Applications.
"Sec. 1905. Award of grants; limitation.
"Sec. 1906. Discretionary research grants.
"Sec. 1907. Reports.
"Sec. 1908. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALS

"Sec. 2001. Continuation of rules, authorities, and privileges.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 962(c), is amended by adding at the end the following new paragraph:

"(13) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out part S, of which not more than 20 percent may be used to accomplish the duties of the Director under section 1901, including administrative costs, research, and training programs.".

SEC. 994. MANDATORY LITERACY PROGRAM.

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration or systemwide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill; or

(C) is under a sentence of death.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy and the names and types of tests that were used to determine disabilities affecting functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a systemwide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies that elect to establish a program described in subsection (a) for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(e) DEFINITION.—For the purposes of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General may make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for reintegration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section, the term "life skills" includes self-development, communication skills, job and financial skills development, education, interpersonal and family relationships, and stress and anger management.

SEC. 995. TRAUMA CENTERS AND CRIME-RELATED VIOLENCE.

(a) AMENDMENT OF PUBLIC HEALTH SERVICE ACT.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended by adding at the end the following new part:

"PART D—REIMBURSEMENT FOR UNCOMPENSATED TRAUMA CARE

"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence due to crime. Grants under this subsection may be made only to such trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING PENETRATION WOUNDS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma center unless the trauma center demonstrates a significant incidence of uncompensated care debt as a result of treating a population of patients that has been served by the center for the period specified in subparagraph (B) for trauma, including a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the trauma center involved is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center involved is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 1213(c).

"SEC. 1242. PRIORITIES IN MAKING GRANTS.

"In making grants under section 1241(a), the Secretary shall give priority to any application—

"(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 5-year period specified in section 1241(b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"SEC. 1243. COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.

"The Secretary may not make a grant under subsection (a) of section 1241 unless the trauma center involved agrees that—

"(1) the center will continue participation in the system described in subsection (b) of such section throughout the two fiscal years immediately succeeding the fiscal year for which a grant is received;

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A); and

"(3) the center will establish a trauma registry not later than 6 months from the date on which the grant is received that shall include such information as the Secretary shall require.

"SEC. 1244. GENERAL PROVISIONS.

"(a) APPLICATION.—The Secretary may not make a grant under section 1241(a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"(c) LIMITATION ON AMOUNT OF GRANT.—The Secretary may not make a grant to any single trauma center in an amount that exceeds $2,000,000 in any fiscal year.

"(d) CONSULTATION.—Grants shall be awarded under section 1241(a) only after the Secretary has consulted with the state official responsible for emergency medical services, or another appropriate state official, in the State of the prospective grantee.

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

(b) TECHNICAL AMENDMENTS.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended—

(1) in the heading for part C, by inserting "REGARDING PARTS A AND B" after "PROVISIONS";

(2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

(3) in section 1232(a), by striking "this title" and inserting "parts A and B".

SEC. 996. STUDY AND ASSESSMENT OF ALCOHOL USE AND TREATMENT.

The Director of the National Institute of Justice shall—

(1) conduct a study to compare the recidivism rates of individuals under the influence of alcohol or alcohol in combination with other drugs at the time of their offense—

(A) who participated in a residential treatment program while in the custody of the State; and

(B) who did not participate in a residential treatment program while in the custody of the State; and

(2) conduct a nationwide assessment regarding the use of alcohol and alcohol in combination with other drugs as a factor in violent, domestic, and general criminal activity.

SEC. 997. NOTICE OF RELEASE OF PRISONERS.

Section 4042 of title 18, United States Code, is amended—

(1) by striking "The Bureau" and inserting "(a) IN GENERAL.—The Bureau";

(2) by striking "This section" and inserting "(c) Application of Section.—This section";

(3) in paragraph (4) of subsection (a), as designated by paragraph (1)—

(A) by striking "Provide" and inserting "provide"; and

(B) by striking the period at the end and inserting "; and";

(4) by inserting after paragraph (4) of subsection (a), as designated by paragraph (1), the following new paragraph:

"(5) provide notice of release of prisoners in accordance with subsection (b)."; and

(5) by inserting after subsection (a), as designated by paragraph (1), the following new subsection:

"(b) NOTICE OF RELEASE OF PRISONERS.—(1) Except in the case of a prisoner being protected under chapter 224, the Bureau of Prisons shall, at least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, cause written notice of the release or change of residence to be made to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside.

"(2) A notice under paragraph (1) shall disclose—

"(A) the prisoner's name;

"(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

"(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

"(3) A prisoner is described in this paragraph if the prisoner was convicted of—

"(A) a drug trafficking crime (as defined in section 924(c)(2)); or

"(B) a crime of violence (as defined in section 924(c)(3)).

"(4) The notice provided under this section shall be used solely for law enforcement purposes.".

(b) APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES.—In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.

TITLE X—ILLEGAL DRUGS

Subtitle A—Drug Testing

SEC. 1001. DRUG TESTING OF FEDERAL OFFENDERS ON POST-CONVICTION RELEASE.

(a) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4).".

(2) The chapter analysis for chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3608. Drug testing of Federal offenders on post-conviction release.".

(b) DRUG TESTING CONDITION FOR PROBATION.—

(1) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(A) in paragraph (2) by striking "and";

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of the controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. In addition, the Court may decline to impose this condition for any individual defendant, if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant. A defendant who tests positive may be detained pending verification of a drug test result.".

(2) DRUG TESTING FOR SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4), the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court), for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4).".

(3) DRUG TESTING IN CONNECTION WITH PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4), the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4).".

(c) REVOCATION OF PAROLE.—Section 4214(f) of title 18, United States Code, is amended by inserting after "substance" the following: ", or who unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of parole,".

SEC. 1002. DRUG TESTING IN STATE CRIMINAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751 et seq.) is amended by adding at the end the following new section:

"DRUG TESTING PROGRAMS

"SEC. 523. (a) PROGRAM REQUIRED.—It is a condition of eligibility for funding under this part that a State formulate and implement a drug testing program for targeted classes of persons confined in, or subject to supervision in, the criminal justice systems of the State. Such a program must meet criteria specified in regulations promulgated by the Attorney General under subsection (b). Notwithstanding the preceding sentence, no State shall be required to expend an amount for drug testing pursuant to this section in excess of 10 percent of the minimum amount that the State is eligible to receive under subpart 1.

"(b) REGULATIONS.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall promulgate regulations to implement this section to ensure reliability and accuracy of drug testing programs. The regulations shall include such other guidelines for drug testing programs in State criminal justice systems as the Attorney General determines are appropriate, and shall include provisions by which a State may apply to the Attorney General for a waiver of the requirements imposed by this section, on grounds that compliance would impose excessive financial or other burdens on such State or would otherwise be impracticable or contrary to State policy.

"(c) EFFECTIVE DATE.—This section shall take effect with respect to any State at a time specified by the Attorney General, but not earlier than the promulgation of the regulations required under subsection (b).".

(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. 3711 et seq.) is amended by inserting after the item relating to section 522 the following new item:

"Sec. 523. Drug testing programs.".

Subtitle B—Precursor Chemicals

SEC. 1011. SHORT TITLE.

This subtitle may be cited as "The Chemical Control and Environmental Responsibility Act of 1992".

SEC. 1012. DEFINITION AMENDMENTS.

(a) REFERENCES TO LISTED CHEMICALS IN SECTION 102.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and inserting "list I chemical" and by striking "critical to the creation" and inserting "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting "list II

chemical" and by striking "that is used as a solvent, reagent or catalyst" and inserting ", which is not a list I chemical, that is used"; and

(4) in paragraph (40) by striking the phrase "listed precursor chemical or a listed essential chemical" and inserting "list I chemical or a list II chemical" both places it appears.

(b) REFERENCES TO LISTED CHEMICALS IN SECTION 310.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)(A) by striking "precursor chemical" and inserting "list I chemical";

(2) in subsection (a)(1)(B) by striking "an essential chemical" and inserting "a list II chemical"; and

(3) in subsection (c)(2)(D) by striking "precursor chemical" and inserting "chemical control".

(c) OTHER AMENDMENTS TO SECTION 102.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine";

(3) in paragraph (39)(A) by striking "or exportation" and inserting ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semicolon and inserting "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may by regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

(7) by adding at the end the following new paragraph:

"(42) The terms 'broker' and 'trader' mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing together a buyer and a seller, or a buyer or seller and a transporter.".

SEC. 1013. REGISTRATION REQUIREMENT.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b) by inserting "or list I chemicals" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemicals" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES ACT.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that the registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) Maintenance of effective controls against diversion of listed chemicals into other than legitimate channels.

"(2) Compliance with applicable Federal, State and local law.

"(3) Prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law.

"(4) Past experience in the manufacture and distribution of chemicals.

"(5) Such other factors as may be relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or a list I chemical" after "controlled substance" each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by striking "(c) The" and inserting "(c)(1) The"; and

(B) by adding at the end the following new paragraph:

"(2) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in section 303(h) shall be considered.";

(2) in subsection (d)—

(A) in paragraph (3) by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e) by striking "and 307" and inserting ", 827, and 310"; and

(4) in subsections (f), (g), and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) in the case of a person who is a regulated person, to distribute, import, or export a list I chemical without the registration required by this title.".

SEC. 1014. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by striking "(b) Each regulated person" and inserting "(b)(1) Each regulated person";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person.".

SEC. 1015. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, REPORTING, RECORDKEEPING, AND OTHER REQUIREMENTS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and by title II.".

(b) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) PENALTY FOR IMPORTATION OR EXPORTATION.—Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title;

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws

of the country to which the chemical is exported,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 10 years, or both.".

SEC. 1016. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) ADVANCE NOTICE.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 1015(a), is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day advance notice requirement of subsection (a) apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as regular customers if the Attorney General finds that the action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day advance notice requirement for exports of specific listed chemicals to specified countries if the Attorney General determines that the advance notice is not required for effective chemical control. If the advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day advance notice requirement for the importation of specific listed chemicals if the Attorney General determines that the requirement is not necessary for effective chemical control. If the advance notice requirement is waived, importers of such listed chemicals shall be required to submit either reports of individual importations or periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 1015(b), is amended by—

(1) striking "or" at the end of paragraph (3);

(2) striking the comma at the end of paragraph (4) and inserting "; or"; and

(3) by adding after paragraph (4) the following new paragraph:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 1018(d) (1) or (2) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported,".

SEC. 1017. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended:

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P), (Q), (R), (S), (T), (V), (X), and (Y) as subparagraphs (O), (P), (Q), (R), (S), (T), (U), and (X), respectively;

(3) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane."; and

(4) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)".

SEC. 1018. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)(1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer";

(2) in subsection (b)(2)—

(A) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(B) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 1019. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act (21 U.S.C. 880(a)(2)) is amended to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where a person registered under section 303 (or exempt from such registration under section 302(d) or by regulation of the Attorney General) or a regulated person may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such an activity are maintained.".

SEC. 1020. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 1012, is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount of multiple transactions".

SEC. 1021. MANAGEMENT OF LISTED CHEMICALS.

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) OFFENSE.—It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

"(b) PENALTY.—(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, or less than 10 years in the case of a willful violation.

"(4) The court may order that all or a portion of the earnings from work performed by a convicted offender in prison be withheld for payment of costs assessed under paragraph (2).

"(c) SHARING OF FORFEITED ASSETS.—The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) AMENDMENT OF TITLE 11, UNITED STATES CODE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 1022. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Part B of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131 et seq.) is amended by adding at the end the following new section:

"SEC. 428. DISCLOSURE OF INFORMATION TO THE ATTORNEY GENERAL.

"Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 424(b)) under this part or section 1921 of the Social Security Act (42 U.S.C. 1396r-2) shall be provided to the Attorney General. The Secretary shall—

"(1) transmit to the Attorney General such information as the Attorney General may designate or request to assist the Drug Enforcement Administration in the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) and other laws enforced by the Drug Enforcement Administration; and

"(2) transmit such information related to health care providers as the Attorney General may designate or request to assist the Federal Bureau of Investigation in the enforcement of title 18, the Act entitled 'An Act to regulate the practice of pharmacy and the sale of poison in the consular districts of the United States in China', approved March 3, 1915 (21 U.S.C. 201 et seq.), and chapter V

of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).".

SEC. 1023. REGULATIONS AND EFFECTIVE DATE.

(a) REGULATIONS.—The Attorney General shall, not later than 90 days after the enactment of this Act, issue regulations necessary to carry out this subtitle.

(b) EFFECTIVE DATE.—The amendments made by this subtitle shall become effective on the date that is 120 days after the date of enactment of this Act.

Subtitle C—Interdiction

SEC. 1031. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2237. Order to land or bring to

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'aircraft subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation where the nation of registry has consented or waived objection to the enforcement of United States law by the United States;

"(2) the term 'bring to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state;

"(3) the term 'Federal law enforcement officer' has the meaning stated in section 115; and

"(4) the terms 'vessel of the United States' and 'vessel subject to the jurisdiction of the United States' have the meanings stated in the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

"(b) FAILURE TO LAND AIRCRAFT.—(1) It is unlawful for the pilot, operator, or person in charge of an aircraft that has crossed the border of the United States or an aircraft subject to the jurisdiction of the United States that is being operated outside the United States to refuse to obey the order to land made by an authorized Federal law enforcement officer who is enforcing—

"(A) the laws of the United States relating to controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(B) chapter 27 or section 1956 or 1957 of this title.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, after consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated by Federal law enforcement officers to the pilot, operator, or person in charge of an aircraft.

"(c) FAILURE TO BRING VESSEL TO.—It is unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring the vessel to on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(d) RULE OF CONSTRUCTION.—This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or any other law that the Customs Service enforces or administers or the authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(e) CONSENT OR WAIVER OF OBJECTION.—Consent or waiver of objection by a foreign nation to the enforcement by the United States of its laws under this section may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(f) PENALTY.—A person who intentionally violates this section shall be fined under this title, imprisoned not more than 3 years, or both.

"(g) FORFEITURE.—Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred or alleged to have been incurred under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. Any vessel or aircraft that is used in a violation of this section is also liable in rem for any fine or civil penalty imposed under this section.

"(h) DELEGATION OF AUTHORITY.—The Secretary of the Treasury and the Secretary of Transportation may delegate Federal law enforcement officer seizure and forfeiture responsibilities under this section to other law enforcement officers.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Order to land or to bring to.".

SEC. 1032. FAA REVOCATION AUTHORITY.

(a) IMMEDIATE REVOCATION OF REGISTRATION.—Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by adding at the end the following new paragraph:

"(3)(A) The registration of the aircraft shall be immediately revoked upon the failure of the operator of the aircraft to follow the order of a Federal law enforcement officer to land an aircraft as provided in section 2237 of title 18, United States Code. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for the aircraft.

"(B) The Administrator shall establish procedures for the owner of the aircraft to show cause—

"(i) why the registration was not revoked, as a matter of law, by operation of subparagraph (A); or

"(ii) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subparagraph (A), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subparagraph (A).".

(b) REVOCATION OF AIRMAN CERTIFICATE.—Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429(e)) is amended by adding at the end the following new subsection:

"(d)(1) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that—

"(A) the person, while acting as the operator of an aircraft, failed to follow the order of a law enforcement officer to land the aircraft as provided in section 2237 of title 18, United States Code; and

"(B) the person knew or had reason to know that the person had been ordered to land the aircraft.

"(2) If the Administrator determines that extenuating circumstances existed, such as safety of flight, which justified a deviation by the airman from the order to land, paragraph (1) shall not apply.

"(3) Subsection (c)(3) shall apply to any revocation of the airman certificate of any person for failing to follow the order of a Federal law enforcement officer to land an aircraft.".

SEC. 1033. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) AIR INTERDICTION AUTHORITY.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 96. Air interdiction authority

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft subject to the jurisdiction of the United States over the high seas and waters over which the United States has jurisdiction. Any order issued under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 5 of title 14, United States Code, is amended by adding at the end the following new item:

"96. Air interdiction authority.".

SEC. 1034. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) CIVIL PENALTY.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 667. Civil penalty for failure to comply with a lawful boarding or order to land

"(a) INTENTIONAL FAILURE TO COMPLY.—The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) NEGLIGENT FAILURE TO COMPLY.—The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who negligently fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) LIABILITY IN REM.—A vessel or aircraft used in violation of section 2237 of title 18,

United States Code, or section 96 of this title is liable in rem for a civil penalty assessed under this section.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"667. Civil penalty for failure to comply with a lawful boarding or order to land.".

SEC. 1035. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end the following new subsection:

"(i) As used in this section, the term 'authorized place' includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches; and

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act or regulations issued thereunder or section 2237 of title 18, United States Code, any location outside the United States, including a foreign country location at which United States Customs Officers are permitted to conduct inspections, examinations, or searches.".

SEC. 1036. CUSTOMS CIVIL PENALTY PROVISIONS.

The Tariff Act of 1930 (19 U.S.C. 1202 et seq.) is amended by inserting after section 590 the following new section:

"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER TO LAND OR TO BRING TO.

"(a) INTENTIONAL FAILURE TO COMPLY.—The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act or section 2237 of title 18, United States Code, is subject to a civil penalty of not more than $25,000, which may be assessed by the appropriate customs officer.

"(b) NEGLIGENT FAILURE TO COMPLY.—The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act or section 2237 of title 18, United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

SEC. 1037. INFORMATION EXCHANGE AND ASSISTANCE.

Section 142 of title 14, United States Code, is amended—

(1) by inserting "(a) EXCHANGE OF INFORMATION.—" before "The";

(2) in subsection (a), as designated by paragraph (1)—

(A) by inserting "and international organizations" after "with foreign governments"; and

(B) by inserting "maritime law enforcement, maritime environmental protection, and" after "matters dealing with"; and

(3) by adding at the end the following new subsection:

"(b) USE OF PERSONNEL AND FACILITIES.—The Coast Guard may, when so requested by the Secretary of State, use its personnel and facilities to assist any foreign government or international organization to perform any activity for which such personnel and facilities are especially qualified.".

SEC. 1038. ASSISTANCE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Section 149 of title 14, United States Code is amended to read as follows:

"§ 149. Assistance to foreign governments and international organizations

"(a) IN GENERAL.—The President may, upon application from the foreign governments or international organizations concerned, and whenever in the President's discretion the public interest renders such a course advisable, utilize officers and enlisted members of the Coast Guard to assist foreign governments or international organizations in matters concerning which the Coast Guard may be of assistance.

"(b) DETAIL OF PERSONNEL.—(1) Utilization of members may include the detail of such members.

"(2) Arrangements may be made by the Secretary with countries to which such officers and enlisted members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions.

"(3) While detailed under this subsection, officers and enlisted members of the Coast Guard shall receive the pay and allowances to which they are entitled in the Coast Guard and shall be allowed the same credit for all service while so detailed, as if serving with the Coast Guard.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 7 of title 14, United States Code, is amended by amending the item relating to section 149 read as follows:

"149. Assistance to foreign governments and international organizations.".

SEC. 1039. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.

Section 481(c)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c)(4)) is amended by inserting ", and archipelagic waters" after "territorial sea".

Subtitle D—Rural Drug Crime

SEC. 1051. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, may establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1052. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1051(b)(5) with jurisdiction to enforce the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this subtitle.

SEC. 1053. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 in each of the fiscal years 1992, 1993, and 1994 to carry out subsection (a).

SEC. 1054. AUTHORIZATION OF APPROPRIATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating paragraph (6), relating to part N of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as paragraph (8) and removing it to follow paragraph (7), relating to part M of that title I; and

(2) by redesignating paragraph (7), relating to part O of that title, as paragraph (9) and amending the paragraph to read as follows:

"(9) There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O.".

(b) AMENDMENT OF BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(a)(2)(A)) is amended by striking "$100,000" and inserting "$250,000".

SEC. 1055. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section, a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance

abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section, the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetrpolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period of not to exceed 3 years, except that the Director may establish a procedure for the renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992 and 1993.".

SEC. 1056. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

Subtitle E—Grant Programs

SEC. 1061. DRUG EMERGENCY AREAS.

Section 1005(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(c)) is amended by striking subsection (c) and inserting the following new subsection:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) If a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare the State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or by any other law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, to protect property and public health, and to promote safety.

"(2) PROCEDURE FOR DECLARATION.—(A) A request for a declaration by the President designating an area to be a drug emergency area shall be made in writing by the Governor of a State or the chief executive officer of a local government and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) A request under subparagraph (A) shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that Federal assistance is necessary for an effective response to save lives, protect property and public health, and promote safety.

"(C) The President shall not limit declarations under this subsection to highly populated centers of drug trafficking, drug use or drug-related violence, but shall consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor or chief executive officer shall—

"(i) take appropriate responsive action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (quantitative goals, where possible) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review a request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving the application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President may make grants to State or local governments of up to $50,000,000 in the aggregate for any single major drug-related emergency.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year, except that the President, on application of a Governor of a State or chief executive officer of a local government, and, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) A State or local government that receives Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of the assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1992, 1993, 1994, 1995, and 1996 $300,000,000 to carry out this subsection.".

SEC. 1062. DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION.

(a) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new subpart:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that includes—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such an application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan described in subsection (b)(5) and to report on the plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—(1) Each coalition that receives Federal funds under this section shall submit an annual report to the Attorney General and the appropriate State agency that evaluates the effectiveness of the plan described in subsection (b)(5) and contains such additional information as the Attorney General or the appropriate State agency may prescribe.

"(2)(A) The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

"(B) The review described in subparagraph (A) shall—

"(i) evaluate the grant program established in this section to determine its effectiveness;

"(ii) implement necessary changes to the program that can be done by the Attorney General; and

"(iii) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(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. 3711 et seq.) is amended by adding at the end the following new item:

"Subpart 4—Community Coalition on Substance Abuse".

SEC. 1063. GRANTS FOR SUBSTANCE ABUSE TREATMENT.

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 993(a), is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following new part:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"SEC. 2001. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities.

"SEC. 2002. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency.

"(b) DRUG TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the drug treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the prison treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, half-way house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the drug treatment program.

"(3) To qualify as an aftercare program, the head of the drug treatment program, in conjunction with State and local authorities and organizations involved in drug treatment, shall assist in placement of drug treatment program participants with appropriate community drug treatment facilities when such individuals leave prison at the end of a sentence or on parole.

"(d) STATE OFFICE.—The office designated under section 507 of this title (42 U.S.C. 3757)—

"(1) shall prepare the application as required under section 2002; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2003. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 2001 to carry out the projects described in the application submitted under section 2002 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 2002 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 2004. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2002 for the fiscal year for which the projects receive assistance under this part.

"SEC. 2005. EVALUATION.

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such infor-

mation as the Director may reasonably require.".

(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. 3711 et seq.), as amended by section 993(b), is amended by striking the matter relating to part T and inserting the following:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2001. Grant authorization.
"Sec. 2002. State applications.
"Sec. 2003. Review of State applications.
"Sec. 2004. Allocation and distribution of funds.
"Sec. 2005. Evaluation.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), as amended by section 523(c), is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(25) The term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended y section 993(c), is amended by adding at the end the following new paragraph:

"(14) There are authorized to be appropriated $100,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the projects under part T.".

SEC. 1064. DRUG TESTING UPON ARREST.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1063(a), is amended—

(1) by redesignating part U as part V;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following new part:

"PART U—GRANTS FOR DRUG TESTING UPON ARREST

"SEC. 2101. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance is authorized to make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing, implementing, or continuing a drug testing project when individuals are arrested and during the pretrial period.

"SEC. 2102. STATE APPLICATIONS.

"(a) GENERAL REQUIREMENTS.—To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) MANDATORY ASSURANCES.—To be eligible to receive funds under this part, a State must agree to develop or maintain programs of urinalysis or similar drug testing of individuals upon arrest and on a regular basis pending trial for the purpose of making pretrial detention decisions.

"(c) CENTRAL OFFICE.—The office designated under section 507 of this title (42 U.S.C. 3757)—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2103. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 2102(c).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 90 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested in the application.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 2101 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 90 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 90-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 2104. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of individuals arrested in the State bears to the number of individuals arrested in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State the portion of such funds that bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified in the State's application.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for a fiscal year will not be used by the State or that a State is not eligible to receive funds under section 2101, the Director shall award the funds to units of local government in the State, giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2102 for the fiscal year for which the projects receive assistance under this part.

"(d) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 2105. REPORT.

"A State or unit of local government that receives funds under this part shall submit to the Director a report in March of each fiscal year in which funds are received under this part regarding the effectiveness of the drug testing project.".

(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. 3711 et seq.), as amended by section 1063(b), is amended by striking the matter relating to part U and inserting the following:

"PART U—DRUG TESTING FOR INDIVIDUALS ARRESTED

"Sec. 2101. Grant authorization.
"Sec. 2102. State applications.
"Sec. 2103. Local applications.
"Sec. 2104. Allocation and distribution of funds.
"Sec. 2105. Report.

"PART V—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1063(d), is amended by adding at the end the following new paragraph:

"(15) There are authorized to be appropriated $100,000,000 for the fiscal years 1992, 1993, and 1994 to carry out projects under part U.".

Subtitle F—Other Provisions

SEC. 1071. STRENGTHENED FEDERAL PENALTIES RELATING TO CRYSTALLINE METHAMPHETAMINE.

(a) LARGE AMOUNT.—The first sentence of section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) by striking "or" at the end of clause (vii);

(2) by inserting "or" at the end of clause (viii); and

(3) by inserting after clause (viii) the following new clause:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline in form.".

(b) SMALLER AMOUNT.—The first sentence of section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) by striking "or" at the end of clause (vii);

(2) by inserting "or" at the end of clause (viii); and

(3) by inserting after clause (viii) the following new clause:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline in form.".

SEC. 1072. ADVERTISEMENTS OF CONTROLLED SUBSTANCES.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance, but does not include material that—

"(1) merely advocates the use of a similar material or advocates a position or practice; and

"(2) does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.".

SEC. 1073. INCREASED PENALTIES FOR DISTRIBUTION OF CONTROLLED SUBSTANCES AT TRUCK STOPS AND REST AREAS.

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) punishable—

"(1) by a term of imprisonment, or fine, or both, up to twice that authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 1 year.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of—

"(A) a term of imprisonment of not less than 3 years and not more than life imprisonment; or

"(B) a term of imprisonment of up to 3 times that authorized by section 401(b) for a first offense, or a fine up to 3 times that authorized by section 401(b) for a first offense, or both; and

"(2) at least 3 times any term of supervised release authorized by section 401(b) for a first offense.

"(c) Probation shall not be granted in the case of a sentence imposed under subsection (b).

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning stated in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) with the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2716(6))) operating in commerce (as defined in section 12019(3) of that Act (49 U.S.C. App. 2716(3)) and located adjacent to or within 2,500 feet of a highway on the National System of Interstate and Defense Highways or the Federal-aid primary system.".

(b) TECHNICAL AMENDMENTS.—(1) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "409," before "418," each place it appears.

(2) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by inserting after the item relating to section 408 the following new item:

"Sec. 409. Transportation safety offenses.".

(c) SENTENCING COMMISSION GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (a), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) 2 levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(2) in no event less than level 26.

(d) IMPLEMENTATION OF SUBSECTION (c).—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (c) so as to achieve a comparable result.

(e) OFFENSES THAT COULD BE SUBJECT TO MULTIPLE ENHANCEMENTS.—The guidelines referred to in subsection (d), as promulgated or amended under that subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to that subsection is subject to not more than 1 such enhancement.

SEC. 1074. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791(c) of title 18, United States Code, is amended—

(1) in subsection (c) by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A) by inserting "or a controlled substance in Schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C)" after "a firearm or destructive device";

(3) in subsection (d)(1)(B) by inserting "marijuana or a controlled substance in Schedule III, other than a controlled substance referred to in subparagraph (C)," before "ammunition,";

(4) in subsection (d)(1)(C) by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,"; and

(5) in subsection (d)(1)(D) by inserting "(A), (B), or" before "(C)".

SEC. 1075. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.

(a) HEADING FOR SECTION 3.—The Anti-Smuggling Act (19 U.S.C. 1701 et seq.) is amended by inserting the following new heading for section 3:

"SEIZURE AND FORFEITURE OF VESSELS, VEHICLES AND OTHER CONVEYANCES".

(b) AMENDMENT OF SECTION 3.—Section 3 of the Anti-Smuggling Act (19 U.S.C. 1701 et seq.) is amended—

(1) by striking "(a) Whenever" and inserting "(a) VESSELS, VEHICLES, AND OTHER CONVEYANCES SUBJECT TO SEIZURE AND FORFEITURE.—Whenever";

(2) by striking "(b) Every" and inserting "(b) VESSELS, VEHICLES AND OTHER CONVEYANCES, DEFINED.—Every";

(3) in subsections (a) and (b) by inserting ", vehicle, or other conveyance" after "vessel" each place it appears; and

(4) by amending subsection (c) to read as follows:

"(c) ACTS CONSTITUTING PRIMA FACIE EVIDENCE OF VESSEL, VEHICLE, OR OTHER CONVEYANCE ENGAGED IN SMUGGLING.—For the purposes of this section, prima facie evidence that a vessel, vehicle, or other conveyance is being, has been, or is being attempting to be employed in smuggling or to be employed to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, that a vessel has become subject to pursuit under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or is a hovering vessel, or that a vessel fails at any place within the customs waters of the United States or within a customs-enforcement area to display lights as required by law; and

"(2) in the case of a vehicle or other conveyance, that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

SEC. 1076. CLOSING OF LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 1077. UNDERCOVER OPERATIONS—CHURNING.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (26 U.S.C. 7608 note) is amended to read as follows:

"(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act and shall cease to apply after December 31, 1994.".

SEC. 1078. DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding at the end the following new subsection:

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief, including injunctions, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 1079. CONFORMING AMENDMENTS CONCERNING MARIJUANA.

(a) LESS THAN 50 KILOGRAMS.—(1) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by striking "less than 50 kilograms of marijuana" and inserting "less than 50 kilograms of a mixture or substance containing a detectable amount of marijuana".

(2) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C.

960(b)(4)) is amended by striking "with respect to less than 50 kilograms of marijuana" and inserting "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marijuana".

(b) 100 OR MORE PLANTS.—Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking "except in the case of 100 or more marijuana plants" and inserting "except in the case of 50 or more marijuana plants".

SEC. 1080. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.

Subsections (d) and (f) of section 5038 of title 18, United States Code, are amended by striking "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b)(1), (2), and (3)).".

SEC. 1081. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER RICO.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

SEC. 1082. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) SECTION 401(b)(1)(B), (C), AND (D) OF THE CONTROLLED SUBSTANCES ACT.—Subparagraphs (B), (C), and (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B), (C), and (D)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(b) SECTION 1010(b)(1), (2), AND (3) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1), (2), and (3) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1), (2), and (3)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(c) SECTION 1012(b) OF THE CONTROLLED IMPORT AND EXPORT ACT.—Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marijuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony drug offense have become final".

(d) SECTION 401(b)(1)(A) OF THE CONTROLLED SUBSTANCES ACT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For the purposes of this subparagraph, the term 'felony drug offense' means".

(e) SECTION 102 OF THE CONTROLLED SUBSTANCES ACT.—Section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended by section 1012(c)(7), is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than 1 year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marijuana, or depressant or stimulant substances.".

SEC. 1083. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) SECTION 401(b)(1) OF THE CONTROLLED SUBSTANCES ACT.—Subparagraphs (A) and (B) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.".

(b) SECTION 1010(b) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1) and (2) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) are amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.".

(c) SECTION 419(d) OF THE CONTROLLED SUBSTANCES ACT.—Section 419(d) of the Controlled Substances Act (21 U.S.C. 860(c)), as redesignated by section 501(1), is amended by striking "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(d) SECTION 420(e) OF THE CONTROLLED SUBSTANCES ACT.—Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking "An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section.".

SEC. 1084. CONFORMING AMENDMENT TO PROVISION PUNISHING A SECOND OFFENSE OF DISTRIBUTING DRUGS TO A MINOR.

Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting "3 years".

SEC. 1085. LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence." and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony punishable by a maximum term of imprisonment of 10 years or more and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

SEC. 1086. LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by law, a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater sentence is otherwise authorized by law, a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

SEC. 1087. DRUG PARAPHERNALIA.

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended to read as follows:

"(d) The term 'drug paraphernalia' means any equipment, product, or material of any kind that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, weighing, testing, analyzing, packaging, repackaging, storing, containing, planting, propagating, cultivating, growing, harvesting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this title, including—

"(1) kits designed for use or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

"(2) kits designed for use or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

"(3) isomerization devices designed or intended for use in increasing the pctency of any species of plant that is a controlled substance;

"(4) testing equipment designed or intended for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances;

"(5) scales and balances designed for use in weighing or measuring controlled substances;

"(6) containers and other objects designed or intended for use in storing or concealing controlled substances;

"(7) hypodermic syringes, needles, and other objects designed or intended for use in parenterally injecting controlled substances into the human body; and

"(8) objects intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, crack cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

"(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

"(B) water pipes;

"(C) carburetion tubes and devices;

"(D) smoking and carburetion masks;

"(E) roach clips (that is, objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand);

"(F) miniature spoons with level capacities of one-tenth cubic centimeter or less;

"(G) champer pipes;

"(H) carburetor pipes;

"(I) electric pipes;

"(J) air-driven pipes;

"(K) chillums;

"(L) bongs;

"(M) ice pipes or chillers;

"(N) wide or extra-width cigarette papers; and

"(O) cocaine freebase kits.".

SEC. 1088. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding at the end the following new paragraph:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph.

SEC. 1089. DRUG DISTRIBUTION TO PREGNANT WOMEN.

Subsections (a) and (b) of section 418 of the Controlled Substances Act (21 U.S.C. 859 (a) and (b)) are amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age".

SEC. 1090. DRUGGED OR DRUNK DRIVING CHILD PROTECTION.

(a) APPLICATION OF STATE LAW IN AREAS WITHIN FEDERAL JURISDICTION.—Section 13(b) of title 18, United States Code, is amended—

(1) by striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, commonwealth, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

(b) COMMON CARRIERS.—Section 342 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following new subsection:

"(b)(1) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such an offense shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if a minor (other than the offender) was present in the common carrier when the offense was committed.

"(2) For the purposes of paragraph (1), the term 'minor' means a person less than 18 years of age.".

SEC. 1091. PENALTIES FOR DRUG DEALING IN PUBLIC HOUSING AUTHORITY FACILITIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 1092. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following new subsection:

"(c) The Attorney General may bring a civil action against any person who violates this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 1093. INCREASED PENALTIES FOR DRUG DEALING IN "DRUG-FREE" ZONES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "one year" and inserting "3 years"; and

(2) in subsection (b) by striking "three years" each place it appears and inserting "5 years".

SEC. 1094. ANABOLIC STEROIDS PENALTIES.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following new subsection:

"(b)(1) Whoever, being a physical trainer or adviser to a person, attempts to persuade or induce the person to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, imprisoned not more than 2 years (or if the person attempted to be persuaded or induced was less than 18 years of age at the time of the offense, 5 years), or both.

"(2) As used in this subsection, the term 'physical trainer or adviser' means a professional or amateur coach, manager, trainer, instructor, or other such person who provides athletic or physical instruction, training, advice, assistance, or any other such service to any person.".

SEC. 1095. PROGRAM TO PROVIDE PUBLIC AWARENESS OF THE PROVISIONS OF LAW THAT CONDITION PORTIONS OF A STATE'S FEDERAL HIGHWAY FUNDING ON THE STATE'S ENACTMENT OF LEGISLATION REQUIRING THE REVOCATION OF THE DRIVER'S LICENSES OF CONVICTED DRUG ABUSERS.

The Attorney General, in consultation with the Secretary of Transportation, shall implement a program of national awareness of section 333 of Public Law 101-516 (104 Stat. 2184) and section 104(a)(3) of title 23, United States Code, which shall notify the Governors and State Representatives of the requirements of those sections.

SEC. 1096. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.

Section 5122(c) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(c)) is amended by inserting "or local governments with the concurrence of local educational agencies" after "for grants to local educational agencies".

SEC. 1097. MISUSE OF THE WORDS "DRUG ENFORCEMENT ADMINISTRATION" OR THE INITIALS "DEA".

Section 709 of title 18, United States Code, is amended by inserting the following new paragraph before the paragraph beginning "Shall be punished":

"Whoever, except with the written permission of the Administrator of the Drug En-

forcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration;".

TITLE XI—PUBLIC CORRUPTION

SEC. 1101. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1992".

SEC. 1102. PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 226. Public corruption

"(a) STATE AND LOCAL GOVERNMENT.—

"(1) HONEST SERVICES.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of the State or political subdivision shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) FAIR AND IMPARTIAL ELECTIONS.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(A) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(B) through paying or offering to pay any person for voting;

"(C) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(D) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title, imprisoned not more than 10 years, or both.

"(3) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in paragraphs (1) and (2) are that—

"(A) for the purpose of executing or concealing a scheme or artifice described in paragraph (1) or (2) or attempting to do so, a person—

"(i) places in any post office or authorized depository for mail matter, any matter or thing to be sent or delivered by the Postal Service, or takes or receives therefrom any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(ii) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(iii) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(iv) uses or causes the use of any facility of interstate or foreign commerce;

"(B) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed affect, interstate or foreign commerce; or

"(C) in the case of an offense described in paragraph (2), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have any authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(b) FEDERAL GOVERNMENT.—Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or a person who has been selected to be a public official shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) OFFENSE BY AN OFFICIAL AGAINST AN EMPLOYEE OR OFFICIAL.—

"(1) CRIMINAL OFFENSE.—Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States or of a State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal a scheme or artifice described in subsection (a) or (b), shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) CIVIL ACTION.—(A) Any employee or official of the United States or of a State or political subdivision of a State who is discharged, demoted, suspended, threatened, harassed, or in any manner discriminated against because of lawful acts done by the employee or official as a result of a violation of this section or because of actions by the employee on behalf of himself or herself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action and obtain all relief necessary to make the employee or official whole, including—

"(i) reinstatement with the same seniority status that the employee or official would have had but for the violation;

"(ii) 3 times the amount of backpay;

"(iii) interest on the backpay; and

"(iv) compensation for any special damages sustained as a result of the violation, including reasonable litigation costs and reasonable attorney's fees.

"(B) An employee or official shall not be afforded relief under subparagraph (A) if the employee or official participated in the violation of this section with respect to which relief is sought.

"(C)(i) A civil action or proceeding authorized by this paragraph shall be stayed by a court upon certification of an attorney for the Government that prosecution of the action or proceeding may adversely affect the interests of the Government in a pending criminal investigation or proceeding.

"(ii) The attorney for the Government shall promptly notify the court when a stay may be lifted without such adverse effects.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) any person who has been nominated, appointed, or selected to be an official or who has been officially informed that he or she will be so nominated, appointed, or selected;

"(2) the term 'person acting or pretending to act under color of official authority' includes a person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official;

"(3) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201 and also include any person acting or pretending to act under color of official authority;

"(4) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

(b) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"226. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 1103. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended—

(1) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) TECHNICAL AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by amending the item relating to section 1343 to read as follows:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 1104. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) OFFENSE BY PUBLIC OFFICIAL.—A public official who, in a circumstance described

in subsection (c), directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State,

shall be guilty of a class B felony.

"(b) OFFENSE BY PERSON OTHER THAN A PUBLIC OFFICIAL.—A person who, in a circumstance described in subsection (c), directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence the public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence the public official to do or to omit to do any act in violation of the official's lawful duty,

shall be guilty of a class B felony.

"(c) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in subsections (a) and (b) are that the offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) DEFINITIONS.—As used in this section—

"(1) the terms 'controlled substance' and 'controlled substance analogue' have the meanings stated in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; and

"(D) any person who has been nominated or appointed to a position described in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed.".

(b) TECHNICAL AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(3) The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following new item:

"220. Narcotics and public corruption.".

TITLE XII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

SEC. 1201. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 1202. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title, imprisoned not more than 1 year, or both, and in all other cases," after "shall"; and

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "10"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "6".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," each place it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 1203. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "6".

SEC. 1204. VIOLENT FELONIES AGAINST THE ELDERLY.

(a) OFFENSE.—Subchapter D of chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3587. Mandatory sentence for felony against individual of age 65 or over

"(a) PENALTY.—Upon any plea of guilty or nolo contendere or verdict or finding of guilty of a defendant of a crime of violence under this title, if any victim of the crime is an individual who had attained age 65 on or before the date that the offense was committed, the court shall sentence the defendant to imprisonment—

"(1) for a term of not less than one-half of the maximum term of imprisonment provided for the crime under this title, in the case of a first offense to which this section applies; and

"(2) for a term of not less than three-fourths of the maximum term of imprisonment provided for the crime under this title, in the case of a second or subsequent offense to which this section applies.

"(b) TERMS OF PUNISHMENT.—Notwithstanding any other law, with respect to a sentence imposed under subsection (a)—

"(1) the court shall not give the defendant a probationary sentence;

"(2) the sentence shall be served consecutively to any other sentence imposed under this title; and

"(3) the court shall reject any plea agreement that would result in the imposition of a term of imprisonment less than that which would have been imposed under subsection (a) in connection with any charged offense.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'crime of violence' means—

"(A) a felony that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) a felony that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

"(2) the term 'victim' means an individual against whom an offense has been or is being committed.".

(b) TECHNICAL AMENDMENTS.—(1) The subchapter analysis for subchapter D of chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3587. Mandatory sentence for felony against individual of age 65 or over.".

(2)(A) Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

(i) by adding at the end of the first paragraph in paragraph (1) (after "record.") the following new sentence: "Neither the defendant nor the court may waive a presentence investigation and report unless there is in the record information sufficient for the court to determine whether a mandatory sentence must be imposed pursuant to title 18, United States Code, section 3581."; and

(ii) in paragraph (2)(D) by inserting "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed" after "offense".

(B) Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking "*In General.*—The" and inserting "*In General.*—Except as provided in title 18, United States Code, section 3581, the".

SEC. 1205. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

SEC. 1206. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

Subtitle B—Civil Rights Offenses

SEC. 1211. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results"; and

(3) by inserting "and may be fined under this title, or both" before the period.

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "not more more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(4) by inserting "and may be fined under this title, or both" before the period.

(c) FEDERALLY PROTECTED ACTIVITIES.—The first sentence of section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(5) by inserting "and may be fined under this title, or both" before the period.

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) by striking "not more than $1,000," and inserting "under title 18, United States Code,";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(3) by striking "not more than $10,000," and inserting "under title 18, United States Code,";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under title 18, United States Code, or imprisoned"; and

(6) by inserting ", or both" after "life".

Subtitle C—White Collar and Property Crimes

SEC. 1221. RECEIPT OF PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) ROBBERY.—Whoever"; and

(2) by adding at the end the following new subsection:

"(b) RECEIPT OF PROCEEDS.—Whoever receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 1222. RECEIPT OF PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§ 880. Receipt of proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property that was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both."; and

(2) in the chapter analysis, by adding at the end the following new item:

"880. Receipt of proceeds of extortion.".

(b) KIDNAPPING.—Section 1202 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) VIOLATION OF SECTION 1201.—Whoever"; and

(2) by adding at the end the following new subsections:

"(b) VIOLATION OF STATE LAW.—Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

"(c) DEFINITION.—For purposes of this section, the term 'State' has the meaning stated in section 245(d).".

SEC. 1223. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code, or" before "the Antitrust Civil Process Act".

SEC. 1224. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 1225. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'savings and loan association' means—

"(1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation; and

"(2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.".

SEC. 1226. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666.".

SEC. 1227. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.

(a) IN GENERAL.—Part VI of title 28 of the United States Code is amended by adding at the end the following:

"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION

"Sec.
"3701. Definitions.
"3702. Unlawful sports gambling.
"3703. Injunctions.
"3704. Applicability.

"§ 3701. Definitions

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participate; and

"(B) a league or association of persons or governmental entities described in subparagraph (A);

"(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization, including an entity or organization described in section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5)), that has governmental authority within the territorial boundaries of the United States, including lands described in section 4(4) of such Act (25 U.S.C. 2703(4));

"(3) the term 'person' has the meaning given that term in section 1 of title 1;

"(4) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which 1 or more professional athletes participate; and

"(B) a league or association of persons or governmental entities described in subparagraph (A); and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Palau, or any territory or possession of the United States.

"§ 3702. Unlawful sports gambling

"It is unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact; or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on 1 or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on 1 or more performances of such athletes in such games.

"§ 3703. Injunctions

"A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of the violation.

"§ 3704. Applicability

"(a) EXCEPTIONS.—Section 3702 does not apply to—

"(1) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity, to the extent that the scheme actually was conducted by that State or other governmental entity prior to August 31, 1990;

"(2) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity if—

"(A) the scheme is authorized by law; and

"(B) a scheme described in section 3702 (other than parimutuel animal racing or jai alai) actually was conducted in that State or other governmental entity during the period beginning September 1, 1989, and ending August 31, 1990, pursuant to the law of the State or other governmental entity; or

"(3) parimutuel animal racing or jai alai.

"(b) INDIAN LANDS.—Except as provided in subsection (a), section 3702 shall apply on lands described in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).".

(b) TECHNICAL AMENDMENTS.—The part analysis for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

"176. Federal Debt Collection Procedure ..... 3001";

and

(2) by adding at the end the following new item:

"178. Professional and Amateur Sports Protection ..... 3701".

SEC. 1228. CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in 1 or more computer programs (including any tape, disk, or other medium embodying such programs); or"; and

(4) in subparagraph (D), as redesignated by paragraph (2)—

(A) by striking "or" after "recording,"; and

(B) by inserting ", or a computer program" before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A) by striking "or" after the semicolon;

(2) in subparagraph (B) by striking "and" at the end and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in 1 or more computer programs (including any tape, disk, or other medium embodying such programs); and".

(c) DEFINITIONS.—Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) the term 'computer program' has the meaning stated in section 101 of title 17, United States Code.".

SEC. 1229. FINANCIAL INSTITUTIONS FRAUD.

(a) FEDERAL DEPOSIT INSURANCE ACT.—Section 19(a)(2)(A)(i)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(2)(A)(i)(I)) is amended by striking "or 1956" and inserting "1517, 1956, or 1957".

(b) FEDERAL CREDIT UNION ACT.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

(c) CRIME CONTROL ACT OF 1990.—Section 2546 of the Crime Control Act of 1990 (28 U.S.C. 522 note; 104 Stat. 4885) is amended by adding at the end the following new subsection:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

SEC. 1230. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by adding "or" at the end of paragraph (d); and

(3) by inserting after paragraph (d) the following new paragraph:

"(e) intentionally uses, discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511 (b) and (c), 2511(e), 2516, and 2518, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, having obtained or received the information in connection with a criminal investigation, with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 1231. THEFTS OF MAJOR ART WORKS.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 668. Theft of a major art work

"(a) THEFT FROM MUSEUM.—Whoever steals or obtains by fraud any object of cultural heritage held in a museum commits a class C felony.

"(b) EXHIBITION OR STORAGE BY MUSEUM.—A museum that exhibits to the public or holds in storage any stolen object of cultural heritage knowing that such object is stolen commits a class C felony.

"(c) LIMITATIONS.—Notwithstanding section 3282, the statute of limitations for an offense under this section is 20 years.

"(d) FORFEITURE.—The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'museum' means an organized and permanent institution, essentially educational or aesthetic in purpose with professional staff, that owns and utilizes tangible objects, cares for them, and exhibits them to the public during a regularly scheduled period; and

"(2) the term 'stolen object of cultural heritage' means a stolen object that is—

"(A) registered with the International Foundation for Art Research, Smith International Adjustors, or any equivalent registry; and

"(B) reported to law enforcement authorities as having been stolen.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end the following new item:

"668. Theft of a major art work.".

SEC. 1232. MILITARY MEDALS AND DECORATIONS.

Section 704 of title 18, United States Code, is amended—

(1) by striking "not more than $250" and inserting "under this title"; and

(2) by adding at the end "For the purposes of this section, the term 'sells' includes trades, barters, or exchanges for anything of value.".

SEC. 1233. MOTOR VEHICLE THEFT PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Motor Vehicle Theft Prevention Act".

(b) MOTOR VEHICLE THEFT PREVENTION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 160. Motor vehicle theft prevention program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with States and localities, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State or locality to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such a person that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner or with the consent of the owner.

"(2) MORE THAN 1 SET OF CONDITIONS.—The Attorney General may establish more than 1 set of conditions under which participating motor vehicles may be stopped. If more than 1 set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) MOTOR VEHICLES FOR HIRE.—

"(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) TYPE OF NOTICE.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) PARTICIPATING STATE OR LOCALITY.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality shall agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program and with the conditions under which motor vehicles may be stopped under the program.

"(h) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following new item:

"160. Motor vehicle theft prevention program.".

(c) ALTERATION OR REMOVAL OF MOTOR VEHICLE IDENTIFICATION NUMBERS.—

(1) BASIC OFFENSE.—Section 511(a) of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to section 160 of title 23 shall be fined not more than $10,000, imprisoned not more than 5 years, or both.".

(2) EXCEPTED PERSONS.—Section 511(b)(2) of title 18, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to section 160 of title 23 if that person is the owner of the motor vehicle or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or the owner's authorized agent;

"(ii) State or local law; or

"(iii) regulations promulgated by the Attorney General to implement section 160 of title 23.".

(3) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d) For purposes of subsection (a), the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to section 160 of title 23 for the purpose of obstructing its visibility.".

(4) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(A) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 511 the following new section:

"§ 511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, without authorization under section 160 of title 23 shall be fined not more than $5,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to section 160 of title 23.".

(B) TECHNICAL AMENDMENT.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by inserting after the item for section 511 the following new item:

"511A. Unauthorized application of theft prevention decal or device.".

SEC. 1234. KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.

(a) OFFENSE.—Chapter 1 of title 18, United States Code, as amended by section 771(b), is amended by adding at the end the following new section:

"§ 22. Stolen or counterfeit nature of property for certain crimes defined

"(a) ESTABLISHMENT OF ELEMENT OF OFFENSE.—Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, the element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) DEFINITION.—For purposes of this section, the term 'official representation' means a representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, as amended by section 771(c), is amended by adding at the end thereof the following new item:

"22. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 1235. MAIL FRAUD.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 1236. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly, and with intent to defraud, effects transactions, with 1 or more access devices issued to another person, to receive anything of value aggregating $1,000 or more during any 1-year period;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;";

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 1237. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) OFFENSES.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a) FALSE STATEMENT OR REPORT.—(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and, with the intent to deceive, knowingly makes any false material statement or report or willfully overvalues any land, property or security—

"(A) in connection with reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person; and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardizes the safety and soundness of an insurer.

"(b) MISUSE OF MONEY.—(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce; or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that if the embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardizes the safety and soundness of an insurer, the term of imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined under this title, imprisoned not more than 1 year, or both.

"(c) FALSE ENTRY OF FACT.—(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to—

"(A) deceive any person about the financial condition or solvency of such business; or

"(B) deceive any officer, employee, or agent of such person engaged in the business of insurance, insurance regulatory official or agency, or agent or examiner appointed by such official or agency to examine the affairs of such person,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardizes the safety and soundness of an insurer, the term of imprisonment shall be not more than 15 years.

"(d) INFLUENCING, OBSTRUCTING, OR IMPEDING ADMINISTRATION OF LAW.—Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined under this title, imprisoned not more than 10 years, or both.

"(e) ENGAGING IN INSURANCE BUSINESS AFTER CONVICTION.—(1)(A) A person who has been convicted of an offense under this section, or of a felony involving dishonesty or a breach of trust, who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined under this title, imprisoned not more than 5 years, or both.

"(B) Whoever is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if the person has the written consent of an insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) DEFINITIONS.—As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance; or

"(B) the reinsuring of risks underwritten by insurance companies,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who are or who act as officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia or any territory or possession of the United States;

"(B) commerce between any point in a State and any point outside the State;

"(C) commerce between points within a State through any place outside the State; and

"(D) all other commerce over which the United States has jurisdiction;

"(3) the term 'insurer' means—

"(A) a business that is organized as an insurance company under the laws of a State, whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to supervision by the insurance official or agency of a State; or

"(B) a receiver or similar official or any liquidating agent for such a company, in his or her capacity as such,

and includes any person who is or acts as an officer, director, agent, or employee of that business; and

"(4) the term 'State' includes a State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"§ 1034. Civil penalties and injunctions for violations of section 1033

"(a) CIVIL PENALTY.—The Attorney General may bring a civil action in an appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation that the person received or offered for the prohibited conduct, whichever amount is greater. If the offense contributed to the insolvency of an insurer that has been placed under the control of a State insurance regulatory agency or official, such penalty shall be remitted to the regulatory official of the insurer's State of domicile for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy that is available by law to the United States or any other person.

"(b) INJUNCTION.—If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy that is available by law to the United States or any other person.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by adding at the end the following new items:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

(c) MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.—

(1) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by inserting "or" at the end of subparagraph (C); and

(C) by adding at the end the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;".

(2) LIMITATIONS.—Section 3293(1) of title 18, United States Code, is amended by inserting "1033," after "1014,".

(3) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce; or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person of the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033.".

SEC. 1238. INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000, imprisoned not more than 10 years"; and

(B) by striking "not more than $1,000,000" and inserting "not more than $5,000,000"; and

(2) in the second sentence—

(A) by striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000, imprisoned not more than 20 years"; and

(B) by striking "not more than $5,000,000" and inserting "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services).".

SEC. 1239. COMPUTER ABUSE AMENDMENTS ACT OF 1992.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1992".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to 1 or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate com-

merce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to 1 or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) a fine under this title, imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) A person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless the action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, as amended by subsection (d), is amended by adding at the end the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under subsection (a)(5).".

(f) DEFINITION.—Section 1030(e)(1) of title 18 United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18 United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

SEC. 1239A. NOTIFICATION OF LAW ENFORCEMENT OFFICERS OF DISCOVERIES OF CONTROLLED SUBSTANCES OR LARGE AMOUNTS OF CASH IN WEAPONS SCREENING.

Section 315 of the Federal Aviation act of 1958 (49 U.S.C. App. 1356) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) DISCOVERIES OF CONTROLLED SUBSTANCES OR CASH IN EXCESS OF $10,000.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations requiring employees and agents described in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers—

"(1) a controlled substance the possession of which may be a violation of Federal or State law; or

"(2) an amount of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.".

Subtitle D—Sentencing and Procedure

SEC. 1241. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 1242. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

SEC. 1243. REVOCATION OF PROBATION.

(a) IN GENERAL.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR REFUSAL TO COOPERATE IN DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 1244. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d) by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place it appears and inserting "defendant"; and

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

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COOPERATE WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm (as defined in section 921) in violation of Federal law or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing imposed as a condition of supervised release,

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

SEC. 1245. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) PETTY OFFENSES.—Subsection (a)(3) does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 1246. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after "misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403.".

SEC. 1247. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release.".

SEC. 1248. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in the second sentence by striking "place him on probation, or commit him to official detention" and inserting "place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)";

(2) by redesignating subsection (d) as subsection (e); and

(3) by adding after subsection (c) the following new subsection:

"(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than 18 years old, beyond the earlier of—

"(A) the date on which the juvenile becomes 21 years old; or

"(B) the maximum term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between 18 and 21 years old—

"(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond 5 years; or

"(B) in any other case beyond the lesser of—

"(i) 3 years; or

"(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.".

SEC. 1249. IMMUNITY.

Section 6003(b) of title 18, United States Code, is amended—

(1) by striking "or" before "Deputy Assistant Attorney General" and inserting a comma; and

(2) by inserting "or one other officer or employee of the Criminal Division designated by the Attorney General" after "Deputy Assistant Attorney General,".

SEC. 1250. EXTENDED SERVICE OF MEMBERS OF THE SENTENCING COMMISSION.

Section 992(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) Subject to paragraph (2)—

"(A) no voting member of the Commission may serve more than 2 full terms; and

"(B) a voting member appointed to fill a vacancy that occurs before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of that term.

"(2) A voting member of the Commission whose term has expired may continue to serve until the earlier of—

"(A) the date on which a successor has taken office; or

"(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.".

Subtitle E—Immigration-Related Offenses

SEC. 1251. EXPLOITATION OF ALIENS.

(a) OFFENSE.—Chapter 1 of title 18, United States Code, as amended by section 1234(a), is amended by adding at the end the following new section:

"§ 23. Exploitation of aliens

"(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

"(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

"(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

"(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought by the Attorney General in a civil action before a United States district court.

"(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, as amended by section 1234(b), is amended by adding at the end the following new item:

"23. Exploitation of aliens.".

SEC. 1252. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 1251 shall be covered into the Fund and shall be used for the purposes of this section.

(b) DISTRIBUTION OF MONIES IN THE FUND.—(1) Ninety percent of the monies covered into the Fund in any fiscal year may be used by the Attorney General—

(A) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony; and

(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 (104 Stat. 5052) that have not been funded.

(2) Ten percent of the monies covered into the Fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)); and

(B) modifying a plan described in section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1330) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

SEC. 1253. ALIENS CONVICTED OF FELONY DRUNK DRIVING.

Section 241(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)) is amended—

(1) by redesignating clause (iv) as clause (v);

(2) by inserting after clause (iii) the following new clause:

"(iv) DRIVING UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE.—An alien who is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party is deportable."; and

(3) in clause (v), as redesignated by paragraph (1), by striking "and (iii)" and inserting "(iii), and (iv)".

Subtitle F—United States Marshals

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the "United States Marshals Association Establishment Act".

SEC. 1262. ESTABLISHMENT AND PURPOSE OF ASSOCIATION.

(a) ESTABLISHMENT.—There is established the United States Marshals Association (referred to in this subtitle as the "Association"). The Association is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Association are—

(1) to elevate and strengthen public knowledge of law enforcement in general, and the United States Marshals Service in particular;

(2) to promote the exchange of information among private and public institutions and individuals about law enforcement and justice systems issues;

(3) to organize symposia, studies, and research in carrying out paragraphs (1) and (2);

(4) to study the history of law enforcement;

(5) to produce, sell, and distribute educational materials on law enforcement and justice systems issues;

(6) to accept and administer private gifts or property for the benefit of, or in connection with, the activities and services of the United States Marshals Service; and

(7) to promote law enforcement.

SEC. 1263. BOARD OF DIRECTORS OF THE ASSOCIATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Association shall have a governing Board of Directors (referred to in this subtitle as the "Board"), which shall consist of not less than 3 nor more than 20 members, each of whom shall be a United States citizen and be knowledgeable or experienced in law enforcement matters. The Director of the United States Marshals Service shall be a nonvoting member of the Board, ex officio. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—

(1) INITIAL APPOINTMENT.—The members of the Board first appointed shall be appointed by the United States Marshals Association, a nonprofit corporation in existence before the enactment of this Act, which is organized under the laws of the State of Virginia.

(2) SUBSEQUENT APPOINTMENT.—The members of the Board appointed after the appointment of Directors under paragraph (1) shall be appointed in the manner provided in the bylaws of the Association.

(3) ADVICE OF DIRECTOR.—A member of the Board may be appointed with the advice of the Director of the United States Marshals Service (referred to in this subtitle as the "Director").

(4) TERMS.—The members of the Board shall be appointed for terms of 4 years. A vacancy on the Board shall be filled in the manner in which the original appointment was made. No person may serve for more than 2 consecutive terms as a member of the Board.

(c) CHAIR.—The chair of the Board shall be elected by the Board from its members to a 2-year term.

(d) QUORUM.—A majority of the membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the chair at least twice each year. If a member of the Board misses 3 consecutive regularly scheduled meetings, the member may be removed from the Board as provided in the bylaws of the Association, and that vacancy may be filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Association.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Association by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Association and the provisions of this subtitle; and

(C) carrying out such other actions as may be necessary to carry out this subtitle.

(2) The following limitations apply with respect to the appointment of officers and employees of the Association:

(A) Officers and employees may not be appointed until the Association has sufficient funds to pay them for their services. Officers and employees of the Association shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the maximum rate of pay payable under section 5376 of title 5, United States Code, for a position classified above grade GS-15 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board, who—

(i) shall serve, at the direction of the Board, as its chief operating officer; and

(ii) shall be knowledgeable and experienced in matters relating to law enforcement.

(h) ADVISORY COUNCIL.—The chair of the Board may appoint an Advisory Council of up to 15 members to advise the Association on its activities under this subtitle. Members of the advisory council have no vote in matters before the Association.

SEC. 1264. MEMBERSHIP.

(a) ELIGIBILITY.—Eligibility for membership in the Association shall be limited to persons and organizations demonstrating support of the stated purpose, goals, and functions of the Association. Categories of membership shall be as follows:

(1) Regular member, which shall be limited to individuals actively or formerly employed in the United States Marshals Service.

(2) Associate member, which shall be limited to individuals who are qualified by training or experience in Federal, State, local, or foreign law enforcement.

(3) Honorary member, which shall be limited to individuals who have an outstanding record of service in the public or private sector.

(4) Corporate member, which shall be limited to nongovernmental public, private, or nonprofit organizations which support the purposes of the United States Marshals Association.

(5) Sponsoring member, which shall be limited to Federal or State government entities.

(b) APPLICATION.—Persons may apply or be nominated for membership in the Association. Any such application shall be made in writing on the form provided by the Association.

(c) SPONSORSHIP.—Applicants or nominees for membership in any category except that of sponsoring member must be proposed by a regular member. Acceptance of applicants or nominees for membership shall be determined by a majority vote of the Board.

(d) DUES FOR MEMBERS.—Membership dues shall be established by the Board. Dues must accompany a prospective member's application. No dues shall be required in the case of honorary members or sponsoring members.

(e) VOTING.—A member may vote in matters for which the vote of the Association is required, and may serve on the Board.

(f) SUSPENSION OR EXPULSION OF MEMBERS.—A member of the Association may be suspended or expelled for nonpayment of dues in arrears for at least 60 days, for good cause, or for other reasons by a vote of two-thirds of the Board in accordance with procedures prescribed in Robert's Rules of Order. No member who has been suspended or expelled from the Association may be readmitted to membership for a period of 1 year, and readmission thereafter shall require the consent of two-thirds of the Board.

SEC. 1265. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.

(a) IN GENERAL.—The Association—

(1) shall have perpetual existence;

(2) may conduct business throughout the States, territories, and possessions of the United States;

(3) shall have its principal offices in the State of Virginia or such other place as may be determined by the Board; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Association.

(b) SERVICE OF PROCESS.—Service of process on the agent required under subsection (a)(4) or the mailing of process to the business address of the agent shall constitute service on the Association.

(c) SEAL.—The Association may use the seal, insignia, or badge of the United States Marshals Service, and other materials unique to the United States Marshals Service, only with the express written permission of the Director.

(d) POWERS.—To carry out its purposes under section 1262, the Association shall have, in addition to the powers otherwise given it under this subtitle, the usual powers of a corporation acting as a trustee in the State of Virginia or wherever else the Association is incorporated. The Association shall have the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the members of the Board shall not be personally liable, except for gross negligence;

(6) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Association.

(e) ACCEPTANCE OF GIFTS.—A gift, devise, or bequest may be accepted by the Association even though it is encumbered, restricted, or subject to the beneficial interests of private persons if any current or future interest therein is for the benefit of the Association.

SEC. 1266. ADMINISTRATIVE SERVICES AND SUPPORT.

The Director may provide personnel, facilities, and other administrative services to the Association, including reimbursement of expenses under section 1262, not to exceed the then current Federal Government per diem rates, until the date that is 5 years after the date of the enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 1267. VOLUNTEER STATUS.

The Director may, notwithstanding section 1342 of title 31, United States Code, accept voluntary services of the Association in the performance of the functions of the Association under this subtitle.

SEC. 1268. RESTRICTIONS.

(a) FINANCIAL INTERESTS.—No part of the income or assets of the Association shall inure to any member or officer of the Association or member of the Board or be distributed to any such person. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers or the Association or reimbursement for actual necessary expenses in amounts approved by the Board.

(b) PROHIBITION ON LOANS.—The Association shall not make any loan to any member

of the Board or to any officer or employee of the Association.

(c) PROHIBITION ON STOCK.—The Association shall have no power to issue any shares of stock or to declare or pay any dividends.

SEC. 1269. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101 et seq.), the Association shall be treated as a private corporation established under Federal law.

(b) REPORT.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the Congress a report of its proceedings and activities during the year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN ASSOCIATION ACTS OR FAILURES TO ACT.—If the Association—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 1262(b); or

(2) refuses, fails, or neglects to discharge its obligations under this subtitle, or threatens to do so,

the Attorney General of the United States may petition the appropriate court for such equitable relief as may be necessary or appropriate.

SEC. 1270. LIABILITY OF THE UNITED STATES.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Association, nor shall the full faith and credit of the United States extend to any obligation of the Association.

SEC. 1271. NONDISCRIMINATION.

(a) EMPLOYMENT PRACTICES.—Notwithstanding section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)) or section 101(5)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(5)(B)), the Association and any agent of the Association shall be considered to be an employer for purposes of title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990 if the Association is engaged in an industry affecting commerce and meets the minimum employee requirements set forth in those Acts.

(b) MEMBERSHIP PRACTICES.—

(1) PROHIBITED PRACTICES.—It shall be unlawful for the Association, on the basis of the race, color, religion, sex, national origin, age, or disability of an individual, to—

(A) fail or refuse to accept the individual into membership;

(B) expel the individual from membership;

(C) suspend the membership of the individual; or

(D) discriminate against the individual with respect to any of the benefits or obligations of membership.

(2) ENFORCEMENT.—

(A) RIGHT OF ACTION.—Any person may bring a civil action to enforce paragraph (1) in any appropriate United States district court. Any such action may be dismissed for just cause.

(B) INJUNCTIVE RELIEF.—In any civil action brought under this paragraph, the court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate.

SEC. 1272. ACQUISITION OF ASSETS AND LIABILITIES OF EXISTING ASSOCIATION.

The Association may acquire the assets of the United States Marshals Association, a nonprofit organization organized under the laws of the State of Virginia before the enactment of this Act.

SEC. 1273. AMENDMENT AND REPEAL.

The Congress expressly reserves the right to repeal or amend this subtitle at any time.

Subtitle G—Other Provisions

SEC. 1281. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4 (b) or (c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) and (c)),

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 211 of title 18, United States Code, is amended by inserting after the item relating to section 3238 the following new item:

"3239. Optional venue for espionage and related offense.".

SEC. 1282. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

"'Livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, and the carcasses thereof;".

SEC. 1283. COURT TO BE HELD AT LANCASTER.

Section 118(a) of title 28, United States Code, is amended by inserting "Lancaster," before "Reading".

SEC. 1284. AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A UNITED STATES ATTORNEY'S OFFICE IN PHILADELPHIA, PENNSYLVANIA.

(a) AUTHORIZATION.—There is authorized to be appropriated $35,000,000, to remain available until expended, to plan, acquire a site for, design, construct, build out, equip, and prepare for use an office building to house the United States Attorney's Office in Philadelphia, Pennsylvania, notwithstanding any other law.

(b) SITE SELECTION.—The site of the office building constructed pursuant to subsection (a) shall be at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center and shall be approved by the Attorney General after notification submitted to the Congress as required by law.

SEC. 1285. AWARD OF ATTORNEY'S FEES FOR EMPLOYEES OF DEPARTMENT OF JUSTICE.

Section 519 of title 28, United States Code, is amended—

(1) by striking "Except" and inserting "(a) IN GENERAL.—Except"; and

(2) by adding at the end the following new subsection:

"(b) AWARD OF FEES.—

"(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

"(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as a result of such investigation.

"(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such an inquiry, the Attorney General shall consider—

"(A) the sufficiency of the documentation accompanying the request;

"(B) the need or justification for the underlying item;

"(C) the reasonableness of the sum requested in light of the nature of the investigation; and

"(D) current rates for legal services in the community in which the investigation took place.".

SEC. 1286. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000; and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of this section—

(1) the term "criminal offense" means—

(A) any Federal criminal offense involving a controlled substance;

(B) racketeering;

(C) money laundering; and

(D) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs;

(2) the term "money laundering" means an offense under section 1956 or 1957 of title 18, United States Code; and

(3) the term "racketeering" means an offense under section 1951, 1952, or 1955 of title 18, United States Code.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney; and

(2) the office of the local prosecuting attorney,

for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary to implement this section within 90 days after the date of enactment of this Act.

(e) EFFECTIVE DATE.—This section shall become effective on the date that is 60 days after the date of the promulgation of regulations under subsection (d).

SEC. 1287. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS AND REPORT TO CONGRESS ON ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) REPORT TO CONGRESS.—Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", which report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under paragraph (7)(B)."; and

(3) by adding at the end the following new subparagraph:

"(D) a report for the fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

SEC. 1288. DNA IDENTIFICATION.

(a) FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.—

(1) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)), as amended by section 531, is amended—

(A) by striking "and" at the end of paragraph (21);

(B) by striking the period at the end of paragraph (22) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(23) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (referred to in this title as 'DNA') for identification purposes.".

(2) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at the laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis issued by the Director of the Federal Bureau of Investigation under section 1288(b) of the Crime Control Act of 1992;

"(B) DNA samples obtained by and DNA analyses performed at the laboratory will be made available only—

"(i) to criminal justice agencies, for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; and

"(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) the laboratory and each analyst performing DNA analyses at the laboratory will undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1288(b) of the Crime Control Act of 1992.".

(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1992, 1993, 1994, 1995, and 1996 there are authorized to be appropriated $10,000,000 for grants to the States for DNA analysis.

(b) QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—

(1) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(A) Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory directors. The advisory board shall include as members scientists from State and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(B) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(C) The standards described in subparagraphs (A) and (B) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(D) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(2) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under paragraph (1) shall be considered to be an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date that is 5 years after the date on which initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

(c) INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may establish an index of—

(A) DNA identification records of persons convicted of crimes;

(B) analyses of DNA samples recovered from crime scenes; and

(C) analyses of DNA samples recovered from unidentified human remains.

(2) CONTENTS.—The index established under paragraph (1) shall include only information on DNA identification records and DNA analyses that are—

(A) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1288(b) of the Crime Control Act of 1992;

(B) prepared by laboratories and DNA analysts that undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1288(b) of the Crime Control Act of 1992; and

(C) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(i) to criminal justice agencies, for law enforcement identification purposes;

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; or

(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) FAILURE TO MEET REQUIREMENTS.—The exchange of records authorized by this subsection is subject to cancellation if the quality control and privacy requirements described in paragraph (2) are not met.

(d) FEDERAL BUREAU OF INVESTIGATION.—

(1) PROFICIENCY TESTING REQUIREMENTS.—(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under subsection (b). Not later than 1 year after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this subparagraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(B) For each of the 5 years following the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate an annual report on the results of each of the tests described in subparagraph (A).

(2) PRIVACY PROTECTION STANDARDS.—(A) Except as provided in subparagraph (B), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(i) to criminal justice agencies for law enforcement identification purposes; or

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged.

(B) If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) CRIMINAL PENALTIES.—(A) Whoever—

(i) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(ii) willfully discloses such information in any manner to any person or agency not entitled to receive it,

shall be fined not more than $100,000.

(B) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $2,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out subsections (b), (c), and (d).

SEC. 1289. SAFE SCHOOLS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1064(a), is amended—

(1) by redesignating part V as part W;

(2) by redesignating section 2201 as section 2301; and

(3) by inserting after part U the following new part:

"PART V—SAFE SCHOOLS ASSISTANCE

"SEC. 2201. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance, in consultation with the Secretary of Education, may make grants to local educational agencies for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) MODEL PROJECT.—The Director, in consultation with the Secretary of Education, shall develop a written safe schools model in a timely fashion and make such model available to any local educational agency that requests such information.

"SEC. 2202. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to fund anticrime and safety measures and to develop education and training programs for the prevention of crime, violence, and illegal drugs and alcohol;

"(2) for counseling programs for victims of crime within schools;

"(3) for crime prevention equipment, including metal detectors and video-surveillance devices; and

"(4) for the prevention and reduction of the participation of young individuals in organized crime and drug and gang-related activities in schools.

"SEC. 2203. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a local educational agency shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—An application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 2202;

"(2) a description of the schools and communities to be served by the grant, including the nature of the crime and violence problems within such schools;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information in such form and containing such information that the Director may require regarding crime within the schools served by such local educational agency.

"(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

"(1) a description of the crime problems within the schools targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce crime problems.

"SEC. 2204. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 2203(c).

"SEC. 2205. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director, in consultation with the Secretary of Education, shall consider the following factors in awarding grants to local educational agencies:

"(1) CRIME PROBLEM.—The nature and scope of the crime problem in the targeted schools.

"(2) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 2203(c).

"(3) POPULATION.—The number of students to be served by the plan required under section 2203(c).

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 2206. REPORTS.

"(a) REPORT TO DIRECTOR.—Local educational agencies that receive funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 2203(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part, which report shall contain—

"(1) a detailed statement regarding grant awards and activities of grant recipients;

"(2) a compilation of statistical information submitted by applicants under section 2203(b)(4); and

"(3) an evaluation of programs established under this part.

"SEC. 2207. DEFINITIONS.

"For the purpose of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary and secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.".

(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. 3711 et seq.), as amended by section 1064(b), is amended by striking the matter relating to part V and inserting the following:

"PART V—SAFE SCHOOLS ASSISTANCE

"Sec. 2201. Grant authorization.
"Sec. 2202. Use of funds.
"Sec. 2203. Applications.
"Sec. 2204. Allocation of funds; limitations on grants.
"Sec. 2205. Award of grants.
"Sec. 2206. Reports.
"Sec. 2207. Definitions.

"PART W—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2301. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1064(c), is amended by adding at the end the following new paragraph:

"(16) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out projects under part V.".

TITLE XIII—TECHNICAL CORRECTIONS

SEC. 1301. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) TESTING OF CERTAIN SEX OFFENDERS FOR HUMAN IMMUNE DEFICIENCY VIRUS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of";

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)";

(3) in subsection (e) by striking "or (e)" and inserting "or (f)"; and

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but"; and

(ii) by striking "this subsection," and inserting "this subsection"; and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a(b)) is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "subsection (a) (1) and (2)"; and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section"; and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "section 515(a) (1) or (3)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)), as amended by section 902, is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M,," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(3) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(3)) is amended by striking "and N" and inserting "N, O, P, Q, R, S, T, U, V, and W".

(f) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 1201 (42 U.S.C. 3796)—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),"; and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)";

(ii) by striking "personal"; and

(iii) in the first proviso by striking "section" and inserting "subsection"; and

(2) in section 1204(3) (42 U.S.C. 3796b(3)) by striking "who was responding to a fire, rescue or police emergency".

(g) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(h) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant";

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications"; and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(i) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) (42 U.S.C. 3722(c)(2)(E)) by striking "crime,," and inserting "crime,";

(2) in section 302(c)(19) (42 U.S.C. 3732(c)) by striking the period at the end and inserting a semicolon;

(3) in section 602(a)(1) (42 U.S.C. 3769a(a)(1)) by striking "chapter 315" and inserting "chapter 319";

(4) in section 603(a)(6) (42 U.S.C. 3769b(a)(6)) by striking "605" and inserting "606";

(5) in section 605 (42 U.S.C. 3769c) by striking "this section" and inserting "this part";

(6) in section 606(b) (42 U.S.C. 3769d(b)) by striking "and Statistics" and inserting "Statistics";

(7) in section 801(b) (42 U.S.C. 3782(b))—

(A) by striking "parts D," and inserting "parts";

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E";

(C) by striking "403(a)" and inserting "501"; and

(D) by striking "403" and inserting "503";

(8) in the first sentence of section 802(b) (42 U.S.C. 3783(b)) by striking "part D," and inserting "subpart 1 of part E or under part";

(9) in the second sentence of section 804(b) (42 U.S.C. 3785(b)) by striking "Prevention or" and inserting "Prevention, or";

(10) in section 808 (42 U.S.C. 3789) by striking "408, 1308," and inserting "507";

(11) in section 809(c)(2)(H) (42 U.S.C. 3789d(c)(2)(H)) by striking "805" and inserting "804";

(12) in section 811(e) (42 U.S.C. 3789f(e)) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance";

(13) in section 901(a)(3) (42 U.S.C. 3791(a)(3)) by striking "and," and inserting ", and"; and

(14) in section 1001(c) (42 U.S.C. 3793(c)) by striking "parts" and inserting "part".

(j) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 1302. GENERAL TITLE 18 CORRECTIONS.

(a) SECTION 1031.—Section 1031 of title 18, United States Code, is amended—

(1) by redesignating subsection (g), as added by Public Law 101-123, as subsection (h) and removing it to the end of the section; and

(2) in subsection (h), as redesignated by paragraph (1), by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions".

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma that follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293(1) of title 18, United States Code, is amended by striking "1008,".

(f) PART I PART ANALYSIS.—The item relating to chapter 33 in the part analysis for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

SEC. 1303. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) CONTRABAND IN PRISON.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act (21 U.S.C. 863)".

(c) REQUIREMENTS FOR GOVERNMENTAL ACCESS.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(d) PROGRAMS RECEIVING FEDERAL FUNDS.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) OFFENDERS WITH MENTAL DISEASE OR DEFECT.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "section 4241(e), 4243(f), 4244(e), 4245(e), or 4246(e),".

(f) CONTINUING CRIMINAL ENTERPRISES.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(g) SENTENCING COMMISSION.—Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) FIREARMS.—Section 924(e)(2)(A)(i) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(i) ERRONEOUS CITATION IN CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 (104 Stat. 4908) is amended, effective as of the date of enactment of that Act, by striking "951(c)(1)" and inserting "951(c)(2)".

SEC. 1304. OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212 by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213 by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709 by striking the seventh and thirteenth paragraphs;

(4) in section 711 by striking the second paragraph;

(5) by striking section 754 and amending the chapter analysis for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006 by striking "Reconstruction Finance Corporation," and by striking "Farmers' Home Corporation,";

(7) in section 658 by striking "Farmers' Home Corporation,";

(8) in section 1013 by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160 by striking "white person" and inserting "non-Indian";

(10) in section 1698 by striking the second paragraph;

(11) by striking sections 1904 and 1908 and amending the chapter analysis for chapter 93 by striking the items relating to those sections;

(12) in section 1909 by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391 and amending the chapter analyses for chapters 105 and 115, respectively, by striking the items relating to those sections;

(14) in section 2257 by striking subsections (f) and (g) that were enacted by Public Law 100-690 (102 Stat. 4488);

(15) in section 3113 by striking the third paragraph; and

(16) in section 3281 by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

SEC. 1305. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104(a)(3) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(a)(3)) is amended by striking "issuer" and inserting "domestic concern".

SEC. 1306. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting "(b)(5)".

SEC. 1307. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4) by striking "association or persons" and inserting "association of persons";

(2) in section 1956(e) by striking "Evironmental" and inserting "Environmental";

(3) in section 3125—

(A) in subsection (a)(2) by striking the quotation marks; and

(B) in subsection (d) by striking "provider for" and inserting "provider of"; and

(4) in section 3731, in the second undesignated paragraph, by striking "order of a district courts" and inserting "order of a district court".

TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1401. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1992".

SEC. 1402. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated $345,500,000 for fiscal year 1992 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include—

(A) not to exceed $45,000,000 to hire, equip, and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of State and local overtime, equipment, and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip, and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations.

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train, and equip no fewer than 500 full-time equivalent Border Patrol officer positions.

(B) $20,000,000 to hire, train, and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses.

(5) For the United States Marshals Service, $10,000,000.

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip, and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs.

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel, and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title.

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

TITLE XV—FEDERAL PRISONS

SEC. 1501. AUTHORIZATION OF APPROPRIATIONS FOR NEW PRISON CONSTRUCTION.

There is authorized to be appropriated for fiscal year 1993 to the buildings and facilities account, Federal Prison System, Department of Justice, $500,000,000 for the planning of, acquisition of sites for, and the construction of new penal and correctional facilities, such appropriations to be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for that fiscal year.

METZENBAUM AMENDMENTS NOS. 1993 THROUGH 2003

(Ordered to lie on the table.)

Mr. METZENBAUM submitted 11 amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 1993

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Seection 8(a) of the National labor Relations Act (29 U.S.C. 158 (a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written and authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) or (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT NO. 1994

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph;

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This act shall be effective on the day after the date of enactment.

AMENDMENT No. 1995

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT No. 1996

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This act shall be effective on the day after the date of enactment.

AMENDMENT No. 1997

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or "; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purposes of collective bargaining or other mutual and or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of the preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for

any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective two days after the date of enactment.

AMENDMENT NO. 1998

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the draft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective two days after the date of enactment.

AMENDMENT NO. 1999

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT NO. 2000

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT NO. 2001

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT No. 2002

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any labor individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective two days after the date of enactment.

AMENDMENT No. 2003

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective two days after the date of enactment.

KENNEDY AMENDMENTS NOS. 2004 THROUGH 2009

(Ordered to lie on the table.)

Mr. KENNEDY submitted six amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT No. 2004

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective two days after the date of enactment.

AMENDMENT NO. 2005

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) or (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective two days after the date of enactment.

AMENDMENT NO. 2006

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective two days after the date of enactment.

AMENDMENT NO. 2007

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.",

SEC. 3. EFFECTIVE DATE.

This act shall be effective two days after the date of enactment.

AMENDMENT NO. 2008

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective two days after the date of enactment.

AMENDMENT NO. 2009

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective two days after the date of enactment.

METZENBAUM AMENDMENTS NOS. 2010 THROUGH 2027

(Ordered to lie on the table.)

Mr. METZENBAUM submitted 18 amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 2010

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 30 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2011

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 29 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representatives or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2012

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 28 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2013

Strike all after the first word of the pending amendment and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 27 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2014

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 26 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2015

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 25 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2016

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 30 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2017

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 29 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding, and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2018

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 28 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2019

Strike all after the first word of the pending amendment and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 27 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the followng:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2020

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 26 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2021

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 25 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended.

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action

"(1) to hire a permanent replacement for an employee who——

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2022

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 30 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2023

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 29 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2024

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 28 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) At the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2025

Strike all after the first word of the pending amendment and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 27 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding;

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT NO. 2026

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 26 days prior to the commencement of the dispute had file a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to

perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

AMENDMENT No. 2027

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 25 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

PACKWOOD AMENDMENTS NOS. 2028 THROUGH 2038

(Ordered to lie on the table.)

Mr. PACKWOOD submitted 11 amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT No. 2028

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on that fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.

"(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization that is the recognized exclusive representative of the striking employees over those employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a fact-finding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

"(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to fact-finding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a fact-finding board of the kind provided for in section 1207(b) of Title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in fact-finding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The fact-finding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 44 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to fact-finding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

"(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to fact-finding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 44 calendar days after the board is appointed or until the fact-finding board issues is report, provided that if the fact-finding report issues within 44 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

"(ii) during this time period, there shall be no strike or lockout over any issue submitted to the fact-finding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

"(C) Within seven calendar days after a fact-finding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the fact-finding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the fact-finding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the fact-finding board to supplement its initial

report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the fact-finding recommendations are for a lesser duration.

"(D) If, within seven calendar days after a fact-finding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the fact-finding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the fact-finding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a fact-finding report issues if the labor organization fails to serve written notice of an acceptance of the fact-finding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT NO. 2029

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, had performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

"(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization that is the recognized exclusive representative of the striking employees over those employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a fact-finding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

"(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to fact-finding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a fact-finding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in fact-finding and interest arbitration all selected within ten calendar days in the manner provided for in Section 1207(c)(1) of that title. The fact-finding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 44 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to fact-finding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

"(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to fact-finding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 44 calendar days after the board is appointed or until the fact-finding board issues its report, provided that if the fact-finding report issues within 44 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

"(ii) during this time period, there shall be no strike or lockout over any issue submitted to the fact-finding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

"(C) Within seven calendar days after a fact-finding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the fact-finding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the fact-finding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the fact-finding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the fact-finding recommendations are for a lesser duration.

"(D) If, within seven calendar days after a fact-finding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the fact-finding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the fact-finding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a fact-finding report issues if the labor organization fails to serve written notice of an acceptance of the fact-finding recommendations during the seven-day period, provided that if neither labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employer, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT NO. 2030

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.

"(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization that is the recognized exclusive representative of the striking employees over those employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a fact-finding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

"(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to fact-finding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a fact-finding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one number representing the labor organization, one member representing the employer, and one neutral member experienced in fact-finding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The fact-finding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 44 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to fact-finding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

"(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to fact-finding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 44 calendar days after the board is appointed or until the fact-finding board issues its report, provided that if the fact-finding report issues within 44 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

"(ii) during this time period, there shall be no strike or lockout over any issue submitted to the fact-finding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

"(C) Within seven calendar days after a fact-finding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the fact-finding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the fact-finding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the fact-finding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the fact finding recommendations are for a lesser duration.

"(D) If, within seven calendar days after a fact-finding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the fact-finding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the fact-finding report was issued or was due to be issued under subsection (A). The provisions of subsections (i) and (ii) shall not apply after a fact-finding report issues if the labor organization fails to serve written notice of an acceptance of the fact-finding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization: or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT NO. 2031

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.

"(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization that is the recognized exclusive representative of the striking employees over those employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a fact-finding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation's Service.

"(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to fact-finding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does not accept that offer, the dispute shall be submitted to a fact-finding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in fact-finding and interest arbitration all selected within ten calendar days in the manner provided for in Section 1207(c)(1) of that title. The fact-finding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 44 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to fact-finding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

"(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to fact-finding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 44 calendar days after the board is appointed or until the fact-finding board issues its report, provided that if the fact-finding board issues within 44 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

"(ii) during this time period, there shall be no strike or lockout over any issue submitted to the fact-finding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

"(C) Within seven calendar days after a fact-finding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the fact-finding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both labor organization and the employer have so accepted, the fact-finding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the fact-finding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the fact-finding recommendations are for a lesser duration.

"(D) If, within seven calendar days after a fact-finding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the fact-finding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the fact-finding report was issued or was due to be issued under subsection (A). The provisions of subsections (i) and (ii) shall not apply after a fact-finding report issues if the labor organization fails to serve written notice of an acceptance of the fact-finding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrer, shall promise, threaten or take other action—

"(1) to hire a permament replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employer, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT NO. 2032

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

"(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization that is the recognized exclusive representative of the striking employees over those employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a fact-finding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

"(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to fact-finding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a fact-finding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in fact-finding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The fact-finding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to fact-finding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

"(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to fact-finding, shall be extended from the date of the union's offer to utilize those procedures

until the earlier of 45 calendar days after the board is appointed or until the fact-finding board issues its report, provided that if the fact-finding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

"(ii) during this time period, there shall be no strike or lockout over any issue submitted to the fact-finding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

"(C) Within seven calendar days after a fact-finding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the fact-finding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the fact-finding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the fact-finding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the fact-finding recommendations are for a lesser duration.

"(D) If, within seven calendar days after a fact-finding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the fact-finding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the fact-finding report was issued or was due to be issued under subsection (A). The provisions of subsections (i) and (ii) shall not apply after a fact-finding report issued if the labor organization fails to serve written notice of an acceptance of the fact-finding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employer who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT NO. 2033

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

"(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization that is the recognized exclusive representative of the striking employees over those employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a fact-finding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

"(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to fact-finding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a fact-finding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in fact-finding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The fact-finding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to fact-finding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

"(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to fact-finding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the fact-finding board issues its report, provided that if the fact-finding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

"(ii) during this time period, there shall be no strike or lockout over any issue submitted to the fact-finding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

"(C) Within seven calendar days after a fact-finding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the fact-finding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the fact-finding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the fact-finding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the fact finding recommendations are for a lesser duration.

"(D) If, within seven calendar days after a fact-finding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the fact-finding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the fact-finding report was issued or was due to be issued under subsection (A). The provi-

sions of subsection (i) and (ii) shall not apply after a fact-finding report issues if the labor organization fails to serve written notice of an acceptance of the fact-finding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT NO. 2034

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.

"(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization that is the recognized exclusive representative of the striking employees over those employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a fact-finding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

"(B) if the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to fact-finding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a fact-finding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in fact-finding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The fact-finding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to fact-finding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

"(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to fact-finding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the fact-finding board issues its report, provided that if the fact-finding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

"(ii) during this time period, there shall be no strike or lockout over any issue submitted to the fact-finding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

"(C) Within seven calendar days after a fact-finding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the fact-finding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the fact-finding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the fact-finding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the fact finding recommendations are for a lesser duration.

"(D) If, within seven calendar days after a fact-finding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the fact-finding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the fact-finding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a fact-finding report issues if the labor organization fails to serve written notice of an acceptance of the fact-finding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT NO. 2035

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

"(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization that is the recognized exclusive representative of the striking employees over those employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a fact-finding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

"(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to fact-finding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a fact-finding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in fact-finding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The fact-finding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to fact-finding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

"(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to fact-finding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the fact-finding board issues its report, provided that if the fact-finding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

"(ii) during this time period, there shall be no strike or lockout over any issue submitted to the fact-finding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

"(C) Within seven calendar days after a fact-finding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the fact-finding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the fact-finding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the fact-finding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the fact finding recommendations are for a lesser duration.

"(D) If, within seven calendar days after a fact-finding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the fact-finding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the fact-finding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a fact-finding report issues if the labor organization fails to serve written notice of an acceptance of the fact-finding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

AMENDMENT NO. 2036

At the appropriate place insert:

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization that is the recognized exclusive representative of the striking employees over those employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a fact-finding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to fact-finding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a fact-finding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in fact-finding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The fact-finding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to fact-finding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to fact-finding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the fact-finding board issues its report, provided that if the

fact-finding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the fact-finding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a fact-finding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the fact-finding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the fact-finding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the fact-finding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the fact finding recommendations are for a lesser duration.

(D) If, within seven calendar days after a fact-finding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the fact-finding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the fact-finding report was issued or was due to be issued under subsection (A). The provisions of subsections (i) and (ii) shall not apply after a fact-finding report issues if the labor organization fails to serve written notice of an acceptance of the fact-finding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the emhe labor organizthe labor organization's offer.

AMENDMENT NO. 2037

At the appropriate place insert:

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization that is the recognized exclusive representative of the striking employees over those employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a fact-finding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to fact-finding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a fact-finding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in fact-finding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The fact-finding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to fact-finding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to fact-finding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the fact-finding board issues its report, provided that if the fact-finding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the fact-finding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a fact-finding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the fact-finding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the fact-finding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the fact-finding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the fact finding recommendations are for a lesser duration.

(D) If, within seven calendar days after a fact-finding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the fact-finding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the fact-finding report was issued or was due to be issued under subsection (A). The provisions of subsections (i) and (ii) shall not apply after a fact-finding report issues if the labor organization fails to serve written notice of an acceptance of the fact-finding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's officer.

AMENDMENT NO. 2038

At the appropriate place insert:

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization that is the recognized exclusive representative of the striking employees over those employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a fact-finding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to fact-finding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a fact-finding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in fact-finding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The fact-finding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to fact-finding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to fact-finding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the fact-finding board issues its report, provided that if the fact-finding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the fact-finding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a fact-finding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the fact-finding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the fact-finding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the fact-finding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the fact finding recommendations are for a lesser duration.

(D) If, within seven calendar days after a fact-finding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the fact-finding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the fact-finding report was issued or was due to be issued under subsection (A). The provisions of subsections (i) and (ii) shall not apply after a fact-finding report issues if the labor organization fails to serve written notice of an acceptance of the fact-finding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

THURMOND AMENDMENTS NOS. 2039 AND 2040

(Ordered to lie on the table.)

Mr. THURMOND submitted two amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 2039

At the appropriate place in the bill, add the following:

SECTION 1. Paragraph (2) of subsection (b) of section 1951 of title 18, United States Code, is amended to read as follows:

"(2) The term 'extortion' means the obtaining of property from another, with his consent, induced by use of actual or threatened force, violence, or fear thereof, or wrongful use of fear not involving force or violence, or under color of official right."

SEC. 2. Subsection (c) of such section is amended to read as follows:

"(c) Nothing in this section shall be construed to indicate an intent on the part of the Congress—

"(1) to repeal, modify, or affect section 17 of title 15, the Act of March 23, 1932, popularly known as the Norris-LaGuardia Act (47 Stat. 70; 29 U.S.C. 52, 101, 115, 151–166), or the Railway Labor Act (45 U.S.C. 151–188);

"(2) to exclude Federal jurisdiction over the offenses defined in this section on the ground that the conduct is also a violation of State or local law, or that the conduct, if it involves force, violence or fear or force or violence, takes place in the course of a legitimate business or labor dispute or in pursuit of a legitimate business or labor objective; or

"(3) to chill legitimate labor activity by authorizing Federal prosecution for offenses occurring during a labor dispute which do not involve extortion. This intent would preclude prosecution, under this section, of conduct which is incidental to peaceful picketing in the course of a legitimate labor dispute, and consists solely of minor bodily injury, or minor damage to property, or a threat of such minor injury or damage, and is not intended to obtain property. Such excluded offenses shall continue to be subject to prosecution by State and local authorities having jurisdiction over them."

SEC. 3. Section 1951 is amended by adding at the end thereof the following:

"(d) It is a bar to a prosecution under this section that the conduct of the defendant—

"(1) was incidental to peaceful picketing in the course of a legitimate labor dispute, as described in section 2(9) of the National Labor Relations Act, as amended (29 U.S.C. 152(9)), but without regard to whether or not the dispute pertained to employment in industries subject to said Act;

"(2) consisted solely of minor bodily injury, or minor damage to property not exceeding a value of $2,500, or a threat of such minor injury or damage; and

"(3) was not intended to obtain property."

AMENDMENT NO. 2040

At the appropriate place in the bill, add the following:

SECTION 1. DEFINITION OF EXTORTION UNDER HOBBS ACT.

Paragraph (2) of section 1951(b) of title 18, United States Code, (commonly known as the "Hobbs Act") is amended to read as follows:

"(2)(A) The term 'extortion' means the obtaining of property of another—

"(i) by threatening or placing another person in fear that any person will be subjected to bodily injury or kidnapping or that any property will be damaged; or

"(ii) under color of official right.

"(B) In a prosecution under subparagraph (A)(i) in which the threat or fear is based on conduct by an agent or member of a labor organization consisting of an act of bodily injury to a person or damage to property, the pendence, at the time of such conduct, of a labor dispute (as defined in section 2(9) of the National Labor Relations Act (29 U.S.C. 152(9))) the outcome of which could result in the obtaining of employment benefits by the actor, does not constitute prima facie evidence that property was obtained 'by' such conduct.".

COMMEMORATING THE 25TH ANNIVERSARY OF THE REUNIFICATION OF JERUSALEM

MOYNIHAN AMENDMENTS NOS. 2041 AND 2042

Mr. METZENBAUM (for Mr. MOYNIHAN) proposed two amendments to the concurrent resolution (S. Con. Res. 113) concerning the twenty-fifth anniversary of the reunification of Jerusalem, as follows:

AMENDMENT NO. 2041

On page 2, line 7, of the resolution insert the word "religious" between the words "the" and "rights".

AMENDMENT NO. 2042

On page 1 of the Preamble, in the third "Whereas" clause strike the word "majority" and insert in lieu thereof the word "community";

On page 2 of the Preamble, in the seventh "Whereas" clause beginning "Whereas this year marks the twenty-fifth year that Jerusalem has been administered as a unified city" insert the word "religious" between the words "the" and "rights";

On page 2 of the Preamble, strike the eighth and ninth "Whereas" clauses and insert in lieu thereof:

"Whereas in 1990 the United States Senate and House of Representatives overwhelmingly declared that Jerusalem, the capital of Israel, "must remain an undivided city";"

"Whereas United Nations Security Council Resolutions 681 and 726 have raised understandable concern in Israel that Jerusalem might one day be redivided and access to religious sites in Jerusalem denied to Israeli citizens of all faiths and Jewish citizens of other states; and"

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Thursday, June 11, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 2684, the Jicarilla Apache Tribe Water Rights Settlement Act; and S. 2507, the Ak-Chin Water Use Amendments Act of 1992.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 10, at 2:30 p.m. to hold ambassadorial nominations hearing.

NOMINEES

(1) Mr. Dennis P. Barrett, of Washington, to be Ambassador to the Democratic Republic of Madagascar.

(2) Mr. Peter Jon de Vos, of Florida, to be Ambassador to the United Republic of Tanzania.

(3) Mr. Robert E. Gribbin III, of Alabama, to be Ambassador to the Central African Republic.

(4) Mr. Roger A. McGuire, of Ohio, to be Ambassador to the Republic of Guinea-Bissau.

(5) Mr. William Lacy Swing, of North Carolina, to be Ambassador to the Federal Republic of Nigeria.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, June 10, 1992, at 10 a.m., for a hearing on "OSHA Reform: Fulfilling the Promise of a Safe and Healthy Workplace."

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

SUBCOMMITTEE ON AVIATION

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Aviation Subcommittee, of the Committee on Commerce, Science and Transportation, be authorized to meet during the session of the Senate on June 10, 1992, at 10 a.m. on S. 2312 and competition in the airline industry.

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

COMMITTEE ON ARMED SERVICES

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, June 10, 1992, at 2 p.m., in open session, to receive testimony on European security.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Wednesday, June 10, 1992, at 10 a.m. to conduct a hearing on the condition of the banking industry and the bank insurance fund.

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

COMMITTEE ON FINANCE

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 10, 1992, at 9:30 a.m. to hold a hearing on S. 4, the Child Welfare and Preventive Services Act.

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

ADDITIONAL STATEMENTS

THE MADISON INSTITUTE'S CALL FOR A UNIVERSAL HEALTH PLAN

• Mr. KOHL. Mr. President, one of the most pressing issues facing us is the need for comprehensive health reform.

It is clear to most observers that our present system is failing many consumers, and failing American business. Access is restricted and spiraling costs are unaffordable.

Currently 34 million Americans are uninsured, 23 million of which are employed at least 35 hours a week. Two-thirds of the uninsured are above the poverty level. When compared to the situation in other western industrialized nations, the lack of universal access here seems barbaric. It is inconceivable to the majority of our Canadian and German friends that access is not guaranteed to every American.

Many people use the percentage of GNP as an indicator of our spiraling costs compared to those of other nations. One problem with relying only on that figure is that the GNP of the United States hasn't kept pace with that of some of the other nations to which we compare ourselves. Per capita expenditures give us a much better sense of the cost of health care and indeed they are rising rapidly. Per capita spending for health care has doubled in the past decade from $1,063 in 1980 to $2,678 in 1990. It is interesting to note, however, that when one compares per capita expenditures of Canada and the United States, the trends are remarkably similar in constant dollars.

One of the attractive features of the Canadian health care system is the extremely low administrative expense of 1.4 percent. Individual insurance coverage in the United States carries a 39-percent overhead; small group coverage of 10 employees or less—33.5 percent administration expense; large groups of 1,000 or more—5 percent and Medicare—3 percent. There appear to be significant savings gained from pooling the coverage and making uniform the billing procedures.

Because of these potential cost savings and the desire to provide universal access, many Americans have focused on the Canadian system of health care as a model for United States reform. Germany, Japan, and The Netherlands also provide attractive models, and I think we all owe it to ourselves to study these plans and others.

It is not my sense that any single one of them can be transplanted totally and called the American plan. But they yield significant lessons for policymakers and advocates as we go about the business of comprehensive reform.

The Madison Institute, in an effort to help educate Wisconsin citizens about the Canadian health care system, has prepared an educational brochure on a universal health plan. The problems with the American system are highlighted, along with the proposed solutions offered by a universal, single-payer plan.

While I do not necessarily endorse the Canadian system as the sole solution to the American health crisis, I do want to credit the Madison Institute with its interest in and contribution to this debate. Below is their information for the consideration of my colleagues.

I ask that the brochure be printed in the RECORD.

The brochure follows:

THIS COULD BE YOUR TICKET TO A UNIVERSAL HEALTH PLAN FOR AMERICA

The Problem: Costs up, access and benefits down

The Solution: Single-payer public insurance

THE PROBLEM

For business:

Employer health care costs are rising approximately 20% a year.

Employers are reducing coverage shifting costs to employees.

Small businesses cannot afford good health care plans.

Large corporations, providing high-priced plans, cannot compete in the global marketplace.

For workers:

Working men and women are struggling to retain essential health benefits.

Families are at risk as employees eliminate coverage.

Health benefit issues are now a major cause of strikes.

For the uninsured and working poor:

37 million Americans have no health insurance.

85% of the uninsured are workers and their families.

The uninsured often must resort to costly emergency care, sometimes at public expense.

For children:

Over 12 million children are among the uninsured.

Many children are not immunized against such deadly diseases as measles and polio.

Seniors:

Worry about the limitations of Medicare.

Can't afford the high cost of nursing home and home health care.

Spend an increasingly larger percentage of their incomes for health care.

Process masses of insurance forms.

Farmers and others who are self-employed:

Pay exorbitant health insurance premiums or risk catastrophic illness or injury without insurance.

THE SOLUTION

Universal, Single-Payer Plan

I. Fair financing will come from:

Federal, state, county and municipal funds currently spent for health care.

Stable payroll tax from employers to replace escalating insurance premiums.

Progressive individualized taxes which replace employee premiums, co-pays, deductibles, and out-of-pocket expenses.

Funds would be protected from raids by other agencies.

II. Health Care for All:

All U.S. residents regardless of income or health conditions.

Comprehensive benefits covering all health care delivery.

No out-of-pocket costs.

Freedom of choice for patients and for physicians.

III. Single Payer System:

Reduction of administrative and health care delivery costs.

Negotiated provider fees and hospital budget.

Fair pay for health care workers.

Equitable standardized fees for services.

IV. Public Accountability:

Strong centralized cost containment.

Statewide representation.

Assurance of quality of care and services.

MYTHS AND FACTS ABOUT CANADIAN & U.S. HEALTH CARE

Myth: We don't need major health care reform. The United States already has the best medical care in the world.

Fact: Those who can afford to pay for it do receive high quality medical care, but there are 37 million people uninsured and at least

20 million under-insured who don't get adequate care. The United States spends $832 billion, or 14% of Gross National Product (GNP) on health care—more than any other country in the world and the cost is still rising alarmingly. Canada, with a national health program since 1971, spent only 9% of GNP on health care in 1990 and covers everyone equally. The quality of care in both countries is very similar, with a longer life span and lower infant mortality rate in Canada.

Myth: We can't afford such a plan; we already spend too much.

Fact: A universal health care plan need not cost more than our current patchwork system. In the U.S., the health bureaucracy that administers thousands of insurance plans of 1500 insurance companies consumes about 25% of total health expenditures with mountains of paper work. Administrative costs in Canada take only 12% of total health expenditures with more efficient administration, plus improved health planning and spending controls due to single source funding.

Myth: A Universal Health Plan would mean long waits as in Canada.

Fact: In Canada there are no waits for emergency or urgent care. As in this country, Canadians sometimes wait for elective procedures, and for access to especially costly technologies.

Myth: A Universal Health Plan would take away the right of Americans to choose their own doctors and the right of physicians to practice where they wish.

Fact: Canada and other UHP countries offer as much choice to doctors and patients as the U.S. does. Every bill being considered in Congress preserves the right of choice.

Myth: In our free enterprise system, competition should keep costs down and quality up.

Fact: In health care, competition on the basis of service rather than price drives costs up, while the complex maze of public and private coverage adds administrative waste and erodes human dignity.

Myth: Universal health care can't pass in congress over the opposition of business.

Fact: Escalating health insurance costs have harmed the competitiveness of U.S. business. The price of each U.S.-made Chrysler car includes $700 to cover employee health insurance while Canadian health care taxes on the same car would be $200. Universal health care would provide flexibility and quality care while controlling costs.

Myth: Canadians are unhappy with their system.

Fact: Polls of both citizens and doctors in Canada show overwhelming support for their system. Polls in this country show that the majority of Americans want reform of our health care system.

Myth: Doctors will never stand for universal health care.

Fact: Many physicians already support a universal health plan. Freedom to practice with guaranteed payment of all bills and far simpler administration would put most doctors in a better situation than in the current system.

Myth: The present system is better because it best advances the free market.

Fact: The free market is ill-served by a system which restricts labor mobility by tying health insurance to jobs: workers leave jobs they like, or stay with jobs they hate, because of health insurance. Welfare recipients hesitate to take entrance-level jobs with no health coverage. Small business can't afford good enough health insurance to compete for the best employees, and large employers know that high insurance costs hamper their competitiveness on the global market.

Myth: Despite everything, the present system is better because it best stimulates medical science and technology.

Fact: Medical science and technological development are mainly stimulated by the National Institute of Health in conjunction with research universities, not by the private sector.•

THE 100 PERCENT CELLULAR-BRATION

• Mr. LOTT. Mr. President, I wish to call the attention of my colleagues to an American success story, pure and simple.

There is an industry in this country that amounts to the most advanced form of wireless communications yet developed, and it has just started celebrating a special milestone.

I am referring to the cellular telephone industry, a business that is serving roughly 9 million subscribers even though it is still several months shy of its ninth birthday.

Besides attracting subscribers, the cellular industry has just accomplished another rather amazing feat: working under the rules and procedures of the Federal Communications Commission, it now has activated at least one system in every market in the United States.

There are 734 markets in this Nation, and every one now has at least one system running.

And I am proud to say it was a rural market in my home State of Mississippi that put the cellular industry over the top; that represents the spot where a golden cell was activated that marks the linking of a transcontinental communications network.

Indeed, I am even happier to announce that the golden cell is located in Granada County, where I was born. My birthplace now has the same opportunity as any big city to participate in the telecommunications revolution.

Never before has such an advanced telecommunications service been rolled out and made available so quickly throughout rural America after its big city introduction.

With much reason for its pride, the industry is marking the occasion with what it is calling the 100 percent cellular-bration during "National Wireless Telecommunications Month."

The feat has taken 8½ years and an estimated $10 billion. It has been done with homegrown U.S. technology while creating upward of 100,000 new jobs. And it literally, dramatically, has altered the lives of people. It has saved people and property in an emergency role; it has improved business productivity, it has made it easier to cope with the stresses of modern living.

The cellular industry has drawn its share of knocks over the lottery process used by the FCC to award licenses. And some predicted as recently as a year ago that no one would want to build any kind of system in these rural, out-of-the-way markets.

But guess what the cellular industry has proven: Rural America is just as interested, if not more interested, in access to advanced telecommunications as its urban neighbor.

Whether it is the farmer in the field or the veterinarian making barn calls or the produce trucker moving crops or the high school student driving a long distance to school, the productivity and safety benefits of cellular are readily apparent.

I commend this industry for its vision and entrepreneurial drive, and I wish it the best of luck with the 100 percent cellular-bration. The cellular carriers deserve our special thanks for a job well done.

Granada County might not be known to everybody in this Chamber, but it is home to me. And thanks to cellular, it is ready for the 21st century.•

PAYING FOR U.N. PEACEKEEPING

• Mr. SIMON. Mr. President, the Governmental Affairs held an informal meeting followed by a hearing yesterday on my bill, S. 2560, which shifts the payment for U.S. contributions to U.N. peacekeeping from the State Department to the Defense Department. One of the two guests who spoke at the informal meeting was former Secretary of State Cyrus Vance, who is currently a personal envoy of the U.N. Secretary-General. He has done a tremendous job in Yugoslavia, and I expect he will do likewise in future assignments.

Mr. President, we have not had the kind of thorough-going review of U.S. Government organization that the end of the cold war demands. My friend and learned colleague, Senator PAT MOYNIHAN, has had two sets of Foreign Relations Committee hearings on just this subject, but I am not aware of any executive branch changes that have occurred to date. The end of the cold war and the break up of Communist regimes in the U.S.S.R. and Eastern Europe has spawned many new states, some of which are now fighting one another—in the old Yugoslavia and in the Armenia-Azerbaijan conflict. There may be more armed disputes to come in this region, and ongoing conflicts in other parts of the world—for example, Cambodia—that will greatly benefit from U.N. peacekeeping forces.

My legislation is a modest change, one that focuses only on shifting the payment of U.N. peacekeeping from one budget function to another, but it is at least a recognition that changes have occurred in the world and we ought to respond.

Cyrus Vance's testimony before Governmental Affairs reflects the kind of new thinking that the administration has yet to do. He is persuaded that de-

fense ought to pay for peacekeeping assessments, and that the State and Defense Departments can work out shared oversight jurisdiction—with State in the lead. I am convinced he is right.

Secretary Vance says: "Shifting roles and missions within the government is never easy, but changing circumstances require rethinking traditional assumptions. This is, in my view, one of those watershed eras which demands a fresh approach to our global interests and responsibilities."

I commend Cyrus Vance's statement to my colleagues, and I ask that his full statement be printed in the RECORD.

The statement follows:

STATEMENT OF CYRUS VANCE

Thank you Mr. Chairman. I appear before you today as an American who has had the privilege of serving at high levels in the Departments of Defense and State, and more recently as a Personal Envoy of the United Nations Secretary-General. Having viewed the problem of securing a more stable and peaceful world from each of these three perspectives, it has become increasingly evident to me that strengthening the UN's capacity for peacemaking, peacekeeping, and peace enforcement should be a top priority for the United States in the post-Cold War world. Nothing could more directly serve America's interests, or that of the larger international community, than fulfilling the goal of collective security laid out in the UN Charter forty-seven years ago.

At the outset, let me emphasize two points. The first is that handing problems to the UN does not relieve our nation of its responsibilities as the world's most powerful country. The UN's capabilities derive entirely from the political, material, and financial resources provided by its member states, the U.S. chief among them. According to a recent Roper Poll commissioned by the United Nations Association, by a 3-to-1 margin Americans would prefer to send the UN's blue helmets than our own forces to deal with regional crises, yet Congress and the Administration are still quibbling about our payments to the UN. While some progress has been made, it is a troubling irony that we still owe the UN hundreds of millions of dollars in back dues at a point when we are asking the world organization to take on ever wider and riskier peacemaking and peacekeeping responsibilities.

I would also stress that UN efforts to secure the peace around the world directly advance the strategic interests of the United States. With the end of the East-West ideological competition, our interests and those of other UN members coincide more often that not in dealing with regional violence. We have entered an era in which a global cold war has been replaced by a number of local hot wars, an era in which it is vital that change occur peacefully and lawfully, with full respect for the human rights of all parties. It it a time when our resources are limited and the public is rightfully concerned about pressing needs at home. Our citizens are not turning inward, but they do recognize the need for greater burden-sharing among the world's wealthiest and most influential nations. As we witnessed in Desert Storm, it is the UN Security Council that provides the only credible and widely representative mechanism for determining how the international community should act and how burdens should be shared in meeting aggression and bringing peace to troubled regions.

The times demand creative thinking, and I welcome the legislation which Paul Simon, Warren Rudman, and several of their colleagues have introduced to shift the funding of UN peacekeeping from the State Department to the Defense Department budget. A number of my colleagues at the United Nations Association have also been thinking about this question for some time. It is a step in the right direction toward the larger goal of making cooperation with UN peacekeeping and collective security operations one of the stated missions of the U.S. armed services. It is a question of missions and strategies, as well as of money.

The financial rationale is clear. While UN peacekeeping funding looms large in the small State Department account, even with the new missions in Cambodia and Yugoslavia, the U.S. share of the dozen UN peacekeeping operations is less than one-half of one percent of the defense budget. The transfer of $125 million in Defense Department funds to fulfill U.S. 1989 obligations to three UN peacekeeping operations provides a useful precedent. If viewed as an integral component of our national defense strategy, as I believe it should be, peacekeeping would be clearly understood by policymakers and the public alike as a cost-effective bargain in which other countries carry 70 percent of the financial burden.

I would also like to underline the broad strategic reasons why this step would make good sense. The Secretaries of State and Defense have both spoken eloquently of "partnership" as a key theme in America's foreign and defense policies in a changing world and recognize that it is in our national interest to seek partners in responding to threats to the common security of the international community. Our armed forces need to remain strong unilaterally, but they also need to continue to find ways of working with the forces of other nations, whether in collective security operations like Desert Storm or in peacekeeping, arms monitoring, and humanitarian tasks. As Secretary of State Baker told a House subcommittee in March, "support of UN peacekeeping * * * really is a national security priority for the United States." Likewise, in March 1990, General Powell, the Chairman of the Joint Chiefs of Staff, testified to the House that UN peacekeeping operations make "important contributions to our overall security posture."

In recent years, our Defense Department has given invaluable logistical, technical, humanitarian and intelligence support to a number of UN missions around the world. By absorbing peacekeeping expenses and integrating peacekeeping into its mission statement, the Defense Department would both acknowledge the changing role of American armed forces in the post-Cold War era and signal its readiness to put its vast expertise and logistical capabilities at the service of a badly strained United Nations. Both the U.S. and the UN would benefit from steps that would facilitate closer cooperation between America's armed forces and the UN's blue helmets.

The United States, moreover, has a security interest in seeing aggression and large-scale violence handled effectively by the international community, even if the conflict seems far removed from our immediate defense needs. For our national security is diminished incrementally by each unmet act of aggression, by each failure of international diplomacy, and by each disregard of international legal and human rights norms. Even powerful countries, like the United States, have a stake in the credibility of institutions, rules, and mechanisms designed to reinforce international peace, stability, and prosperity. Our global economic interests, as well as our democratic and human values, depend on the containment of local ethnic, tribal and religious violence, just as they once did on the containment of communism.

As the military power of last recourse in the international system, the U.S. has a security interest in helping preventive diplomacy and pre-emptive peacekeeping by the UN and regional organizations succeed in nipping potential violence in the bud, before it threatens broader U.S. interests and perhaps triggers the deployment of American forces. In this sense, the UN blue helmets may act as a first line of defense. A relatively modest investment in UN capabilities can save much greater expentitures—and risks—for U.S. forces later. Desert Storm, for example, cost sixty times as much as the annual U.S. contributions to all UN peacekeeping operations combined.

There are cases when U.S. armed forces should participate in traditional peacekeeping missions—for example in communications or support roles—as well as infrequent Chapter VII enforcement operations, such as in the Persian Gulf and Korea. In Somalia, Cambodia, and the states of former Yugoslavia, there may be instances where the UN is called upon to provide security forces to protect humanitarian assistance going to the innocent victims of war and civil conflict. In these terribly brutal and complex situations, UN peacekeepers may well be called upon to defend themselves in carrying out their broad-based mandate.

Mr. Chairman, I therefore believe the time has come to institutionalize UN peacekeeping and the U.S. relationship to it. In February, his second month in office, the new UN Secretary General, Boutros Boutros-Ghali, ordered a thoroughgoing reorganization of the Secretariat, and assigned to the senior American in the Secretariat, Dick Thornburgh, a leading role for putting it into effect. At the Security Council summit meeting last January, the Secretary General was asked to report in July on "ways of strengthening . . . the capacity of the United Nations for preventive diplomacy, for peacemaking and for peacekeeping," including "the need for adequate resources." Thus the bill at hand is not only well-advised on its own merits, it is also very timely.

Specifically, I view shifting the account of "Contributions for International Peacekeeping Activities" from State to Defense as providing a regular flow of resources to an important element of U.S. national security, and giving a significant mission to the Defense Department.

This would be a marked improvement over the current situation. U.S. peacekeeping assessments are now a separate account within the overall International Organizations and Conferences Chapter of the annual State Department appropriations bill. Some long-standing peacekeeping operations—such as those on the Golan Heights or in Southern Lebanon—are foreseeable and can be budgeted in advance. Others, however, come into being quickly in response to crisis situations or breakthroughs in negotiations, such as those on the Iran-Iraq and Iraq-Kuwait borders, in El Salvador, Cambodia, and Yugoslavia. These, by their very nature, are unexpected and paying for them outside the budget cycle has proved to be very difficult.

In the past, the State Department has responded to such emergency assessments by

trying to absorb them into its relatively small budget, by seeking emergency supplementals, or by requesting transfers from the Defense Department. To address the unprecedented demands of the large peacekeeping operations being dispatched to El Salvador, Cambodia, and Yugoslavia in late 1991 and early 1992, the Administration has proposed a Peacekeeping Contingency Fund as part of its Fiscal Year 1993 budget request. According to the plan, Congress was asked to approve $350 million in supplemental FY 1992 appropriations, and $350 million in FY 1993. Secretary Baker has described this initiative as a major funding priority in international affairs this year. While appropriating $270 million of the FY 1992 supplemental request, several members of Congress have made clear their concern about this surge in peacekeeping requests, which are relatively large in the context of the State Department's budget.

As an additional means of meeting U.S. peacekeeping assessments, State has regularly turned to Defense to provide various kinds of military support for UN peacekeeping operations: most recently for Iraq-Kuwait, Western Sahara, Angola, El Salvador, Cambodia, and Yugoslavia. State has waived reimbursement from the UN, while requesting the obligation of Defense Department funds. The value of Defense Department support has then been credited by the State Department against our UN peacekeeping assessments. But Defense has not been reimbursed from State's peacekeeping account. Thus the military services have had to absorb these costs.

This procedure is unfortunate for several reasons. It leads to time-consuming interagency negotiations over relatively small amounts of money. It also forces two departments which should be actively cooperating into adversarial postures. And, as far as the U.S. taxpayer is concerned, it is robbing Peter to pay Paul.

The proposed bill, Mr. Chairman, would cut through these various problems.

It would facilitate appropriate U.S. participation in UN peacekeeping operations, particularly in the areas of planning, communications, transport, supply, training, and logistics;

It would facilitate using U.S. surplus military equipment to initiate a system of large-scale UN stockpiling: this would improve the timely equipping of UN peacekeeping forces, and might partially offset U.S. assessments for future peacekeeping operations; and

It would provide a regular stream of resources for UN peacekeeping operations out of a much larger budget.

For these reasons, I believe that the time has come to include support for the UN's peace and security efforts as an important component of our national defense strategy. At the same time, I think it would be a grave mistake for the Secretary of State to lose ultimate authority over the broad range of U.S. policies toward and within international organizations. It should be possible to work out an arrangement under which State and Defense share oversight of UN peacekeeping and collective security operations, with State taking the lead. The U.S. representation in the Security Council, where such missions are authorized, is a State Department function, although Department of Defense input on the military aspects would be very valuable. This could in the future include a more significant input from the Council's Military Staff Committee, on which the Joint Chiefs of Staff have a representative. The Defense Department should certainly have a major voice in implementing the Security Council's mandates, which again will have both military and political implications. There are many cases—military assistance, arms sales, arms control, and nuclear warheads among them—where oversight is shared among different agencies. I am sure that the relevant Congressional committees could also work out any jurisdictional questions which might arise.

Shifting roles and missions within the government is never easy, but changing circumstances require rethinking traditional assumptions. This is, in my view, one of those watershed eras which demands a fresh approach to our global interests and responsibilities. We have no choice but to find a way to meet our obligations to the UN, for in doing so we will be meeting our own security needs and those of generations to come. Surely we should not say that we cannot afford to give the UN the tools it needs to keep the peace, especially when it requires only $1 out of every $1,500 in the federal budget. I am confident, Mr. Chairman, that the members of the Senate and House of Representatives will find a way to get the job done.

Thank you, and I would be pleased to respond to your questions.●

TRIBUTE TO BILL VONSTROHE

● Mr. McCONNELL. Mr. President, I rise today to recognize an outstanding Kentucky law enforcement officer who has helped keep the peace for 33 years. Deputy U.S. Marshal Bill VonStrohe retired from service to the U.S. district court in Covington on Friday, May 22, 1992. Bill VonStrohe received a bachelor of science degree in criminal justice management from LaSalle University. Following graduation, Mr. VonStrohe began his career in 1959 in Southgate as a patrolman. After serving 3 years there, he joined the Ft. Thomas police force in 1962. Ten years later he became the first full-time deputy U.S. marshal in Covington and has served for 20 years.

Bill VonStrohe has served faithfully over these past 20 years and his presence will be missed in the marshal's office.

Mr. President, I would like to recognize Bill VonStrohe for his contributions to my State and our country. Please enter the following article from the Kentucky Post into the CONGRESSIONAL RECORD.

The article follows:

[From the Kentucky Post, May 16, 1992]

MOVING ON—DEPUTY U.S. MARSHAL DEPARTING AFTER 20 YEARS AT FEDERAL BUILDING

(By Tim Stein)

Bill VonStrohe clenched his pipe between his teeth, leaned back in a chair and clasped his hands behind his head.

Like the familiar wisps of vanilla, tobacco smoke from his pipe floating out the window, VonStrohe was about to leave U.S. District Court in Covington.

VonStrohe, 56, has spent the last 20 years as a deputy U.S. marshal working in the federal building. For the last 15 years, he has been the deputy in charge. Friday was his last day on the job.

VonStrohe started his law enforcement career in 1959 as a patrolman in Southgate, where he served three years before joining the Ft. Thomas police in 1962. In February 1972, he was hired as the first full-time deputy U.S. marshal in Covington.

"Until then, federal court was only manned by a U.S. marshal during court sessions, and that was only twice a year," VonStrohe said.

VonStrohe said 13 years as a patrolman gave him plenty of experience to take over as a deputy U.S. marshal. "When the job came open I saw the opportunity to expand my career, and it was a good move," he said.

As he looks back at the last 20 years, he remembers a lot of important cases, but none bigger than a shooting that took place on the front steps of the federal building on Oct. 2, 1979.

While two federal marshals were escorting accused bank robber Leslie Marion Phillips into the courthouse, his 18-year-old wife fired a .32 caliber revolver.

One bullet from Melissa Phillips' gun hit her husband in the shoulder, and another creased the head of Marshal Jim Carney. Other marshals returned fire, but the woman escaped on foot headed north on Scott Street.

"I was on the second floor at the time and I heard the shots," VonStrohe said. "When I came downstairs, I saw several people had been struck, including one of my deputies, and they told me the woman was headed down the street."

VonStrohe chased Mrs. Phillips, catching her a block away.

"That, more than anything else that has ever happened, will stick in my mind forever," VonStrohe said.

He admits to some second thoughts about leaving, but figures it's time to move on. "I just feel it's time for me to start a new career. I have no idea what I'm going to do, but I'm sure it will have something to do with law enforcement," VonStrohe said. "It's in my blood."

VonStrohe said what he'll miss most are the people he worked with every day, which included three deputy marshals, two court security officers, the judges, lawyers, and other police agencies that were in and out of federal court every day.

VonStrohe said that U.S. District Court in Covington is getting busier each year with drug cases from the airport.

VonStrohe plans on taking weeks, and maybe months off before he starts a new job. He and his wife, Lois, a deputy sheriff in Campbell County, plan on traveling. "I'm going to do a little fishing, piddle around the house and keep up on the law books and Supreme Court decisions. I love reading and learning the law," he said.

VonStrohe also is a federal jail inspector and has been inspecting jails in Campbell, Boone and Kenton counties for years. He also monitors all grievances from federal prisoners held in local jails.

VonStrohe attended Northern Kentucky University and received a bachelor of science degree in criminal justice management from LaSalle University.●

JUSTICE DENIED IN INDONESIA

● Mr. LEAHY. Mr. President, the world was horrified on November 12 of last year when Indonesian soldiers opened fire on unarmed, peaceful demonstrators in East Timor, killing between 50 and 100. That massacre was only the latest in a long history of human rights atrocities by Indonesian secu-

rity forces in East Timor and in Aceh. It attracted international attention and condemnation only because several foreign journalists, including two Americans, one of whom was badly beaten by soldiers, were at the scene and filmed the shooting.

I spoke on this floor shortly after the November 12 massacre, and again on April 1, when I called on the administration to submit a report to the Appropriations Committee by August 1, 1992, on the Indonesian Government's response. I was particularly concerned that the government fulfill its pledge to punish those who were responsible for the massacre, since in the past such atrocities have routinely gone unpunished.

Last week I got my answer. A total of 10 soldiers were disciplined in court-martial proceedings, none for murder. Their sentences ranged from 8 months to 18 months in jail. The longest sentences were given to two sergeants who shot without orders from their commanders. A 17-month sentence was given to a police corporal who cut off a demonstrator's ear with his bayonet.

These short sentences for the cold-blooded slaughter of dozens of innocent people are an insult in themselves, but they are an even greater insult when compared with the 9- and 10-year sentences for the two demonstrators who have been prosecuted thus far. Other prosecutions of demonstrators are pending, including against the person accused of organizing the demonstration, who is facing a life sentence. The person who was convicted of planning a peaceful demonstration on November 19 to protest the November 12 massacre was sent to jail for 9 years, even though he was not present when the demonstration took place.

Mr. President, these sentences are revealing for what they say about the Indonesian Government's attitude about the massacre. They reinforce the theme, expressed by top military commanders shortly after the killings, that the victims got what they deserved. That was also the unmistakable message of the preliminary report of the National Commission of Investigation, issued on December 26. The final report was never made public, nor was the report of the military's own investigation.

The Indonesian Government said that justice would be done. It has failed to do justice. It has perverted justice. Dozens and dozens of defenseless people were ruthlessly and senselessly killed, and not a single soldier has even been accused, much less convicted, of murder. What kind of justice is that?

Many questions remain, and must be answered, most importantly, who planned the military response, who gave the order to shoot, and who else fired the shots? What happened to the bodies of the missing? And what has been done to ensure free and regular monitoring of human rights in East Timor and Indonesia by human rights groups?

The United States has been a major donor of aid to Indonesia, as have the World Bank and the Asian Development Bank, both of which receive substantial contributions of American tax dollars. Indonesia is also a major purchaser of American weapons.

The administration, which expressed what I believe was hasty and undeserved praise for the National Commission of Investigation's preliminary report, has said it will weigh the Indonesian Government's response to the November 12 massacre when it decides on future aid to Indonesia. I commend them for that. That is what the American people want. For too long the administration has issued bland statements of regret and turned a blind eye to these kinds of abuses, while the aid kept flowing.

The first opportunity to do so is on July 16, at the donor consortium in Paris, chaired by the World Bank. Indonesia, with the fourth largest population, is facing urgent economic, social, and environmental problems, and the United States has an interest in helping solve those problems. But the people of East Timor and Indonesia deserve better. The administration should make a strong, public statement expressing its continuing distress at Indonesia's failure to adequately protect human rights. Any decision on aid at that meeting should fully reflect the Indonesian Government's handling of the East Timor massacre.

Mr. President, I frequently speak on this floor on matters of human rights, as I did last week when I spoke against most-favored-nation trade status for China, one of the world's most repressive governments. Internationally recognized human rights are not simply a domestic concern, as some have asserted. They are rights shared by all humanity, and of legitimate concern to all humanity.

Foreign aid and human rights are inseparable. Too often we have given aid to repressive governments, only to find those countries engulfed in civil war and our aid suspended when the people rose up against dictatorship. Somalia, which consumed hundreds of millions of our aid and is today a smoldering relic of a country, is a classic example. The administration needs to recognize that the American people are not going to support foreign aid in the future unless we stop squandering it on governments that abuse their own people and violate the principles our country stands for.•

COMMENDING JOSEPH M. MALINOVSKY AND K. SCOTT WILLIS, SOUTHEAST ALASKA

• Mr. MURKOWSKI. Mr. President, I rise today on behalf of two Alaskans who are the recipients of the Secretary of Energy's Community Service Award for 1991. Joseph M. Malinovsky and K. Scott Willis have earned this distinction by their selfless generosity, voluntarism, and community service in southeast Alaska.

Mr. Joseph M. Malinovsky is the chief, administrative division, at the Alaska Power Administration. He chaired an unusually innovative and effective fund drive for the southeast Alaska combined Federal campaign in 1991. Although Mr. Malinovsky's committee held after-hour, weekly meetings, representatives from 20 Federal offices in 12 southeastern Alaska communities participated. His committee's campaign attracted donations of more than $110,000, almost 20-percent higher than any previous records. Some of the committee's accomplishments included a poster contest for grade school children, a native arts fair, and participation in local United Way activities. Thank you Mr. Malinovsky for your outstanding leadership.

Mr. K. Scott Willis, a civil engineer, also with the Alaska Power Administration, was one of a small group of volunteers that took on the job of refurbishing and activating a planetarium owned by the Juneau School System. Scott and his volunteers were self-taught in developing the system and designing instructional forums regularly presented to the school and other public groups. The Juneau Planetarium is only one of two such facilities in the State of Alaska. Not only has Scott participated in this educational venture, but he serves as a member of his local government's Energy Advisory Committee, as an assistant lay minister in his church and as a Cub Scoutmaster. On March 16, 1992, Scott was also named as "Juneau Federal Employee of the Year." Congratulations to Mr. Willis for his commitment to public service.

Thank you for this opportunity to share with you two fine examples of American citizens who made a difference in their communities and State by volunteering.•

TRIBUTE TO HOPKINSVILLE

• Mr. MCCONNELL. Mr. President, I rise today to recognize Hopkinsville, KY's sixth largest city.

Hopkinsville is located in the southwestern section of the State and is surrounded by both rugged hills and fertile farmland. This contrast that is characteristic of the area is also characteristic of this wonderful town. Christian County, where Hopkinsville is situated, has the largest farm income of any county in the State. At the same time, Hopkinsville has just attracted three international companies to the area as part of its growing economic development programs.

Hopkinsville has already begun to deal with the very same problems that

are facing cities all over the country. It has initiated a new program called the HIT Squad—Hopkinsville Inner-City Transition. The HIT squad is designed to improve the city's poorer areas.

Hopkinsville is symbolic of the cooperation that is needed to make the transition from a small farm community to an industrialized city. This sense of cooperation is what sets Hopkinsville apart and is why I believe that it deserves recognition.

Mr. President, I ask that the following article from the Louisville Courier-Journal be submitted into the CONGRESSIONAL RECORD.

The article follows:

HOPKINSVILLE

(By Mark Schaver)

Sometimes they call it "Hoptown," perhaps because that word jumps off the tongue more easily than Hopkinsville.

Or perhaps—as Christian County historian William Turner tells it—the nickname dates from the days when Hopkinsville was the only stop on the railroad line where passengers could find spirits as trains passed through Kentucky. It's an old Kentucky joke that Bourbon County is dry and Christian County wet.

Even today there is a liquor store next to the old L&N Railroad depot (although passenger trains stopped coming in 1971).

Turner claims the nickname may have taken root because passengers would ask conductors: "How long will it be before we get to Hopkinsville? I want to hop off and get a drink."

Hop down to Hoptown.

Turner is a fount of stories about Hopkinsville, but people seem to listen incredulously to his tales. Even the man who hired him to teach history at Hopkinsville Community College 22 years ago, Tom L. Riley, refers to him as a "creative historian." "He makes it up as he goes along," jokes Riley, the former president of the college.

Outsiders sometimes apply that same kind of skepticism to the most famous man to ever call Hopkinsville home; the clairvoyant Edgar Cayce. That's probably because claims made for Cayce sometimes sound like something in a supermarket tabloid:

"Man or miracle?" asks the back cover of "There Is a River," a biography of Cayce, who died in 1945. "The astounding true story of Edgar Cayce, the fantastic seer who could: Correctly describe someone he had never seen . . . diagnose illnesses he had never studied . . . outline medical treatments that he had never heard of . . . and in more than ninety percent of the cases was proved to be completely accurate!"

Cayce, a photographer who left Hopkinsville in 1912 after his fame began to spread, gave thousands of transcripts of "readings" he performed while under a self-imposed hypnotic trance to the Association for Research and Enlightenment Inc., a Virginia Beach, Va., organization he founded to carry on his work. To this day the organization disseminates Cayce's advice on treating everything from multiple sclerosis to psoriasis.

One doesn't know what the famous psychic would make of Hopkinsville, which in recent years at least seems to have caught a kind of civic fever. There's a project to resurrect downtown (called "Heart of Hopkinsville"); to beautify streets and neighborhoods (by the non-profit organization, "Pride Inc."); to launch a dogwood festival (initiated last year by "LaPetite Fleur Garden Club"); and to celebrate Edward T. "Ned" Breathitt, a native son who became governor in 1963. (This year saw the first of what supporters hope will be an annual "Ned Breathitt Day.")

The town recently passed Paducah in population to become the sixth largest city in the state, and the General Assembly just passed a bill that will upgrade its status from a third-class to a second-class city.

Hopkinsville has also experienced a boom because three companies have announced in the last year that they will soon open plants. Only a few years ago it seemed the town could be in for a long-term decline as agricultural prices skidded. (Christian County, a leading producer of white corn, has one of the highest farm incomes of any Kentucky county.)

"We just got to the point where the bottom was up and we had to do something," said Austin B. Carroll, general manager of the Hopkinsville Electric Co. and chairman of the Hopkinsville-Christian County Chamber of Commerce.

One of the things they did was consolidate all of their business-booster organizations under one roof—from the Economic Development Council to the Industrial Foundation to the Chamber of Commerce—helping put an end to what everyone says was an effort that sometimes resembled a headless octopus—tentacles everywhere, but no coordination.

"We were naive enough to believe that all we had to do was fly to California and go to some computer company and tell them how good Hopkinsville is and it would work," said Michael Baker, director of economic development. Instead, they became more sophisticated recruiters, learning to pitch the town not as they would like it to be but as it is: a bedrock kind of place with a hard-working but not especially highly trained labor force.

Baker has a map of the country's industrial park that seems to prove the virtues of the new approach: Virtually all of the sites that had once been empty have now been marked off with red lines showing new occupants.

His office offers evidence of another change: On one table there is a porcelain figurine of a Japanese woman in traditional dress, on another an elegant Japanese plate, and on his desk a book: "The Japanese."

Christian County already has attracted three companies with Japanese affiliations, as well as companies based in Canada, Switzerland and Germany.

It's a long way from the other history that is also reflected in Baker's office. The walls are decorated with framed but worthless Confederate bonds, and a picture of Jeb Stuart, the Confederate cavalry officer who staged a series of raids during what locals still refer to as the War Between the States.

The country has long been said to look to the Deep South for inspiration, although it was divided during the Civil War, with the small farmers on hilly, less-fertile ground at the northern end of the county tending to support the Union, while the farmers on the rich fatlands to the south were more likely to support the Confederacy. Unlike farmers on the northern end, who worked their own land the farmers at the southern end used slaves to process the dark tobacco that once made the county the center of the world's production of that crop.

That legacy has given Hopkinsville one of the highest percentages of black residents in Kentucky—26.9 percent.

The race picture is a mixed one: Three of the 12 members of the city council are black, as is one of the eight members of the county Fiscal Court. Neighborhoods are essentially segregated, although there are some blacks living in predominantly while neighborhoods. The country club has no black members, but some say they know black people with the income and social qualifications who have been approached. The county had the state's first black sheriff, William Dillard, but he was convicted in 1989 of conspiring to distribute cocaine and misappropriating government property.

In the 1960s, Hopkinsville was one of the first cities in the state to set up a Human Relations Commission, and everyone points with pride to the efforts now being made. Last year, for example, the Economic Development Council hired its first director for a program to foster minority businesses. There's also Focus 2000, a program designed to promote minority leadership.

"I don't think the walls are completely down, but there are so many holes, you can walk through them if you want to," said Arlivia Gamble, an insurance agent whom the local newspaper labeled "The Mother of Focus 2000."

Yet that feeling hasn't necessarily filtered down to those who play less prominent roles in community affairs.

David West, for example, is skeptical that announcements of new plants mean better job prospects for him. "For a person of my color, do you think I could walk in there and get a job?" West asked while waiting to get a haircut at the black-owned Watkins Barber Shop.

Many in town complain that the country will never offer much of a future so long as most of the jobs pay just $6 to $8 an hour. That's a problem community leaders say they are trying to address by building a technology center at the community college to train workers for more highly skilled jobs.

Hopkinsville leaders are also making a greater effort to exploit the resources they already have. For years, for example, Hopkinsville did not court the 24,000 soldiers stationed at Fort Campbell. Virtually all of them who lived away from the Army post preferred to rent apartments and spend money in Clarksville, Tenn.—until the Chamber of Commerce created an office to foster good relations with the military.

Hopkinsville believes it is overcoming its problems. Mayor Wally Bryan, for example, has been praised for his "H.I.T. Squad" (H.I.T. stands for "Hopkinsville Inner-City Transition"), a program to go into the city's poorer neighborhoods, initiate community projects and tear down the dilapidated, abandoned houses that blight some neighborhoods. In a little more than two years, about 70 buildings have been demolished.

The city also has a community policing program that sends police officers into neighborhoods on bicycles so they can develop rapport with the people they serve.

The town, which has many impressive old homes, also has an active historic-preservation movement, and in some neighborhoods no exterior changes can be made without official approval. Many of the town's buildings are listed in the National Register of Historic Places.

There is also an active arts community that puts on plays in the restored Alhambra Theater and encourages artists such as Steve Shields, a sculptor, who created the soldier that stands over Fort Campbell Memorial Park. It honors the 248 members of the 101st Airborne who died in the 1985 plane crash in Gander, Newfoundland.

"There's a stereotype of rural communities that there isn't any artistic consciousness or sensibility, but time after time, when a group here has had an idea, they would want to include some type of sculpture or art with it," Shields said.

One could expand the definition of art to include Dink Embry, who for more than 40 years has had an early-morning program on radio station WHOP that sometimes was little more than the reading of one advertisement after another. Embry, who claims to have run off at age 15 to join a traveling medicine show, has even had a street named for him: Dink Embry's Buttermilk Road.

"I'd rather be hung here," Embry said, "than die a natural death anywhere I can think of."

Population (1990): Hopkinsville, 29,809; Christian County, 68,941.

Per capita income (1989): $12,331, or $1,492 below the state average.

Jobs (1990): Total employment 18,887; manufacturing, 5,073; wholesale/retail trade; 5,006; services, 3,961; state/local government, 2,716; construction, 590; mining/quarrying, 120; transportation, communications/utilities, 536; finance, insurance/real estate, 753.

Big employers: Flynn Enterprises (blue jeans, jackets), 1,000 jobs; Autostyle Inc. (plastic auto parts), 431; Dana Corp. (auto framing), 410; Phelps Dodge Magnet Wire Co. (wire), 407.

Media: Newspaper—Kentucky New Era (daily). Radio Stations—WZZF-FM (oldies); WQKS-AM (urban contemporary); WHOP-AM (adult contemporary) and WHOP-FM (country); WNKL-FM (Christian). Television—TV-43 (Independent); Cable TV—44 channels.

Transportation: Air—Hopkinsville-Christian County Airport, 5,000 foot runway; nearest commercial service, Nashville International Airport, one hour via I-24. Rail—CSX Transportation Systems. Road—Pennyville Parkway; U.S. 41; U.S. 41A; U.S. 681; I-24 is about 10 miles away. Bus—Greyhound Bus Lines. Trucking—more than 20 lines serve Hopkinsville, including seven with local terminals.

Education: Christian County Schools, 8,596 students. Five parochial and private schools, 540; Hopkinsville Community College, 1,828; Christian County Vocational School, 369; CareerCom Junior Business College, 200.

Topography: Rugged hills at northern end of the county give way to flat, rich farmland in the south.

FAMOUS FACTS AND FIGURES

More than 13,000 Cherokee Indians, traveling on foot, horseback and in wagons, passed through Hopkinsville between October 1838 and February 1839 on their way west from their homes in the Smoky Mountains to a reservation in Oklahoma. Thousands died along the forced march, which became known as "The Trail of Tears."

Jefferson Davis, president of the Confederacy during the Civil War, was born in 1808 in Fairview, about 10 miles east of Hopkinsville. His birthplace is marked by a 351-foot-tall obelisk, said to be one of the world's tallest concrete monuments. It looks a great deal like the Washington Monument.

When passing through Hopkinsville, it's difficult to avoid the intersection of Ninth and Main Streets, the scene of several famous events in local history. Thomas G. Woodward, a West Point graduate and Confederate soldier, was shot from his horse there and killed by Paul Fuller, a Union sympathizer, on Aug. 19, 1864. Dr. Edward S. Stuart founded what is now the Jennie Stuart Medical Center in honor of his wife Jane Vaugh ("Miss Jennie") Stuart, who broke her hip in a fall at Ninth and Main. The limited medical facilities in town were said to have hastened her death in 1912.

The Night Riders, a masked band of tobacco farmers from Kentucky and Tennessee who wanted to raise tobacco prices by intimidating other farmers to keep them from selling to a North Carolina trust, burned three tobacco warehouses in Hopkinsville in December 1907.

Adlai E. Stevenson, vice president in President Grover Cleveland's second term, was born in 1835 in Herndon, southwest of Hopkinsville. In 1852 he moved to Bloomington, IL., where he became a lawyer and congressman. His grandson, Adlai E. Stevenson, was Democratic nominee for president in 1952 and 1956, losing both races to Republican Dwight Eisenhower.●

ORDER OF BUSINESS

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

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have consulted with the Republican leader and I now set the vote on the cloture motion filed against S. 55, the strikebreaker replacement bill, to occur tomorrow, Thursday, June 11, at 4:45 p.m.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Thursday, June 11; that following the prayer, the Journal of Proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 11:45 a.m., with Senators permitted to speak therein for up to 5 minutes each with the following Senators to be recognized in the order indicated and for the time limits specified: 45 minutes for Senator HOLLINGS; 40 minutes for Senator DANFORTH; and 20 minutes for Senator GORTON; and that at 11:45 a.m., the Senate resume consideration of the pending business, with the time between 11:45 a.m. and the cloture vote at 4:45 p.m. equally divided and controlled between Senators METZENBAUM and HATCH.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I thank my colleagues. I am advised no other Senators wish to speak today on the subject of S. 55, the pending bill. We had agreed earlier that the Senate would remain in session today for as long as necessary to accommodate any Senator who wished to speak. I am advised that no other Senators wish to speak. So any Senators who do want to talk tomorrow will have to do so within the 5-hour period for debate which has just been agreed to pursuant to this order.

RECESS UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER (Mr. BINGAMAN). Pursuant to the previous order, the Senate now stands in recess until 10 a.m. Thursday, June 11.

Thereupon, at 5:10 p.m. the Senate recessed until Thursday, June 11, 1992, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 10, 1992:

DEPARTMENT OF STATE

FRANK G. WISNER, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE UNDER SECRETARY OF STATE FOR COORDINATING SECURITY ASSISTANCE PROGRAMS, VICE REGINALD BARTHOLOMEW.

HOUSE OF REPRESENTATIVES—*Wednesday, June 10, 1992*

The House met at 10 a.m.

Bishop P.A. Brooks, the New St. Paul Tabernacle Church, Detroit, MI, offered the following prayer:

God of all power and goodness, we thank You for our Nation and for this Congress. We ask Your blessing upon every Member of this assembly. Teach us how far we are from reaching any millennial age of perfected politics. Make us aware of such tyrannies of law or labor, of wealth or of corporate power as should be resisted by a spirit of doing justly.

May our ultimate reliance in America not be placed in legislation nor knowledge alone or even in material power but may rely on Your guidance in directing each Member of this historic congressional body to perform their task with compassion for the entire Nation with all of its ethnic groups with their needs.

May we not be insensitive to the issues of education for our children—adequate medical care for the aged—housing for the homeless.

May they persevere in resolving the problems of the unemployed in our troubled cities.

May they not falter in addressing the drug problem as well as protecting our environment from industrial pollution.

May their legislation correct the inequities of our justice system.

And finally, may each citizen contribute to that sum of collective righteousness which alone exalts and preserves a nation through Jesus Christ, our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PENNY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. PENNY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 277, nays 122, not voting 35, as follows:

[Roll No. 180]

YEAS—277

Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
Atkins
Bacchus
Barnard
Bateman
Bennett
Berman
Bevill
Bilbray
Blackwell
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Callahan
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hyde
Jefferson
Jenkins
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Sisisky
Skaggs
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Waters
Waxman
Weiss
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—122

Allard
Allen
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Gradison
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Jacobs
James
Johnson (CT)
Johnson (TX)
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Paxon
Porter
Pursell
Quillen
Ramstad
Regula
Rhodes
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Shuster
Sikorski
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Upton
Vucanovich
Walker
Weldon
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—35

Abercrombie
Anthony
AuCoin
Beilenson
Bonior
Byron
Campbell (CO)
Cox (CA)
Davis
Derrick
Dymally
Feighan
Hefner
Hutto
Inhofe
Ireland
Johnson (SD)
Lehman (FL)
Levine (CA)
Lowery (CA)
McDade
Meyers
Nagle
Nichols
Owens (UT)
Riggs
Sanders
Savage
Slaughter
Torres
Traxler
Washington
Weber
Wheat
Young (FL)

□ 1029

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. (Mr. MONTGOMERY). Will the gentleman

from Texas [Mr. SMITH] please come forward and lead the House in the Pledge of Allegiance?

Mr. SMITH of Texas led the Pledge of Allegiance as follows:

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

A CALL FOR AMERICA TO JOIN THE ENVIRONMENTAL MOVEMENT

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, there is a new commitment around the globe, a commitment that it is time to end the environmental abuse, time to control emissions and preserve the forests, a time to be certain that the next generation and those that follow will enjoy this environment that has been given to us.

Only one thing, however, is wrong by this commitment. The nation that began the conservation movement earlier in this century, the nation that established the highest standards for emissions and technology is not included.

George Bush made a judgment that all other nations who will reach for these high standards and preserve the environment for the future will not include the United States. It is to his eternal shame. And our generation and this country will never be forgiven, if the American people do not demand that America join this movement.

BALANCED BUDGET AMENDMENT

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, passing the balanced budget amendment to the Constitution is the right action for the wrong reasons.

It is right to break the Federal Government of the habit of spending more than it takes in, but it is unfortunate that Congress has become addicted to spending and borrowing and taxing. It is regrettable that Congress must be forced to exercise self-discipline.

For decades, Republican candidates, Republican officeholders and Republican Presidents have embraced a balanced budget amendment. Democratic leaders have opposed it. Democratic leaders say it will not work. Yet 49 States have balanced budget requirements.

They say it will hurt essential Government programs. But the budget can be balanced if annual spending is limited to a 3-percent increase and if government overhead, not people or programs, is targeted.

Democratic leaders say the balanced budget amendment can't be enforced. That is true, if they ignore the will of the people and their own oath of office to uphold the Constitution.

Members of Congress should listen to the people who put them in office. More than three-fourths of all Americans approve of the balanced budget amendment.

IN FAVOR OF THE BALANCED BUDGET AMENDMENT

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, today and tomorrow this House will debate the balanced budget amendment to the Constitution. I intend to support this amendment because I am convinced that it will make it more difficult for this Government to deficit spend.

Once implemented, the balanced budget amendment will require a three-fifths vote of the Congress, a 60-percent vote for us to borrow. However, we need to debate more than a balanced budget amendment. We need to debate thoroughly those tough choices that we have to make if we are going to get this budget back in the black.

If we adopt a balanced budget amendment, it will not take effect until 1998. A vote on this amendment will mean little if we do not also adopt as soon as possible a budget reduction package to get us back in the black between now and then. A vote on the balanced budget amendment is not enough because a balanced budget amendment will not make the tough choices for us.

NEW PANEL WOULD RECOMMEND RULES AND PROCEDURES FOR SELECTION OF PRESIDENT IN THE HOUSE

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, today I am introducing legislation leading to new rules for the House of Representatives in choosing a President. My resolution would direct the Speaker of the House and the minority leader to appoint a panel of three preeminent constitutional scholars to recommend rules and procedures the House will follow if the election is thrown into the House of Representatives as outlined in amendment 12 of the U.S. Constitution.

With a Presidential election in a three-way race, the threat of a deadlocked election becomes very real. The House of Representatives lacks rules to deal with this kind of crisis. It is absolutely critical that we act calmly now to establish rules—before high emotions of a close election make adopting rules impossible.

The House rules dealing with selection of a President under the 12th amendment must be fair so that all Americans will have confidence in the outcome. For the House to select the President would be traumatic enough. We cannot afford to have a public perception that the deck is stacked for one candidate or another. This should be a bipartisan effort. It should be undertaken quickly as a signal the House is ready to face up to its responsibilities.

There are a number of questions and concerns the panel would be charged with reviewing. These would include but not be limited to the following:

The Constitution reads that each State shall have a single vote. How do congressional delegations determine how they vote? Who votes and represents the State's congressional delegation? What will be the specific House procedure to cast or count the vote?

Is the process secret or public, both with respect to how individual Members vote and how States cast their vote?

What happens in the event a delegation is deadlocked?

Is a majority or a plurality required, both within the State's vote and in the full House?

The panel would be expected to develop its recommendations as expeditiously as possible and would provide a report of their recommendations to the Speaker and the minority leader by August 7, 1992.

Mr. Speaker, this House can ill-afford to mishandle this situation. I urge the swift adoption of my resolution to see that the House is prepared to handle the Presidential election should it become necessary.

THE CRIME OF THE U.S. JUSTICE DEPARTMENT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, a great crime was committed in the Demjanjuk case relative to the trial where he was charged with being the infamous Ivan of Treblinka. The crime, as it turns out, was not Demjanjuk, a retired auto worker from Cleveland. It was a crime of the U.S. Justice Department that knew as early as August 1978 that the real Ivan was Ivan Marchenko, not Demjanjuk.

Our Justice Department chose to prosecute, more like persecute Demjanjuk for that count. This is not wrongful prosecution, Members. This is a felony.

And Allen Ryan and Neal Sher of the Office of Special Investigation can sue me, but I say they should go directly to jail for what they did to that man. If there is any justice left, our Congress will investigate if there is still any justice left in our Justice Department.

Let me close by saying this: When Congress allows the rights of one indi-

vidual to be trampled on, Congress endangers the ultimate rights of all Americans.

GET THE FACTS RIGHT

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and read from a printed document.)

Mr. GUNDERSON. Mr. Speaker, some of my colleagues may have noticed this statement in the Washington Post this morning. I thought I would take time to bring it to their attention because every once in a while there is an allegation that is so incorrect in its facts that we have to come to the House floor and respond to it.

Mr. Phil Sokolof, whoever he is, and I wish I would have the chance to meet him, is suggesting that somehow or another this Congress is using our kids as a dumping ground for the dairy farmers of America.

I wish his facts were true, if he is going to make those allegations. He suggests that we mandate through the National School Lunch Program that all kids have to drink whole milk. If he would read the law, he would find out that is not true at all.

All we do mandate is that every school lunch program has to offer an option of different milk fat contents, one of which is whole milk.

He also goes on to suggest that somehow or another this Congress has 488 million pounds of butter in storage, purchased from dairy farmers. Yes, that is true. It is true because the American dairy industry has moved away from fat.

We ought to take a look at the facts, my colleagues. The dairy industry is a modern, low-fat industry. This is simply wrong.

□ 1040

A BETTER TRADE POLICY, NOT A BALANCED BUDGET AMENDMENT

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, once that balanced budget amendment is passed and put into effect, the first thing that Congress is wanting to do is to increase taxes, cut spending, or do a little bit of each. We do not have to do that. One of the keys in resolving this problem, to offset these taxes and cuts, is in our trade policy. We are exporting our American jobs. No jobs, no taxes, no balanced budget.

Some want to open the markets to Mexico and China now, bring in more of these cheap products. I will tell the Members, we cannot compete in today's market with today's laws. We must also help to offset these subsidies by helping our own industry. If we do not look out for No. 1, if we do not look for American industry and American jobs, then we are doomed to deeper economic woes.

Mr. Speaker, in this House as we contemplate what we are doing, we had better make sure that first of all we stand up for Americans.

THE BALANCED BUDGET AMENDMENT AND THE LINE-ITEM VETO, PROTECTION FOR ALL AMERICANS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the Congress is about to embark on the most important debate, perhaps, of this century in trying to establish for the first time a balanced budget amendment to the Constitution of the United States. Fifty, almost, of our States have this concept embedded in their constitutions, and it works. It will protect senior citizens and Social Security, it will bring back fiscal responsibility, it will engineer an economic recovery the likes of which we have never seen, and will guarantee that in the near, not far, future the prosperity for which we all yearn will become a reality.

If a Governor of a State like ours in Pennsylvania has the ability to line-item veto and to bring about a balanced budget, should not the President of the United States have that same power to have before him a document which will demand a balanced budget amendment, and then to have the extra authority to line-item veto other instances in the budget which will guarantee that balanced budget? It will protect all Americans.

SUPER 301, OPENING DOORS TO AMERICAN PRODUCTS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, Super 301 is not a high-potency lubricant which we spray on hinges so doors open more freely, that is, unless the doors are trade doors in Japan and other nations of the world which have been closed to United States goods, United States exports. Then Super 301, which is in fact a provision of the 1988 trade bill, which was included in the reauthorization of H.R. 5100 adopted yesterday by a subcommittee of the Committee on Ways and Means, then Super 301 is, indeed, a lubricant, because it will open doors to U.S. products.

I am happy to report again, Mr. Speaker, that reinstatement of the 301 provision of the 1988 trade bill is in H.R. 5100, reported favorably yesterday by the Ways and Means Subcommittee. I am a proud original cosponsor of the bill. I hope it passes and passes very soon.

RADIO BROADCAST COMMISSION DENIED ACCESS TO CHINA

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, for several months now, the Commission on Broadcasting to the People's Republic of China has been evaluating several proposed legislative initiatives that would expand United States radio broadcasting to China, Vietnam, and North Korea. Clearly, this monumental task requires a certain degree of on-site inspection.

Last Friday, the Commission announced its decision to cancel a scheduled factfinding visit to China. In classic fashion, the Beijing Government said that a nonofficial visit would be permissible as long as certain rules were adhered to. One Commission member was to be denied entry outright, while others in the group—which includes journalists, scholars, and former U.S. ambassadors—were given prescribed roles of behavior that a schoolteacher might give to a group of 7-year-olds on a school outing to the Baltimore Aquarium. Rule layered upon rule inevitably leads to the construction of a brick wall. As such, the Commission will not be going to China.

Mr. Speaker, the clumsy diplomacy exercised by Beijing comes as no surprise. What does come as a surprise, however, is the continued willingness of many in this country to wring their hands over the issue of increased broadcasting to China or Vietnam. When are we going to realize that the ongoing survival of these regimes is directly related to their own pathetic attempts to keep their citizens in the dark?

REQUESTING A REVIEW OF THE DEMJANJUK CASE

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, the Demjanjuk family are my constituents, and I have never, ever gotten involved with this case, but I think the case of John Demjanjuk has raised enough question marks. I believe that because of the oversight that the Committee on the Judiciary has, that they should look into this situation.

All of us abhor the terrible, terrible war crimes, the most evil crimes of all time. However, I think there is an obligation to assure that all evidence is accurate, in that the proper people responsible are brought to justice, so I would like to see the Committee on the Judiciary that has the oversight take a look at this case.

A DEMAND FOR REASONABLE REDISTRICTING

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, I want to address an issue that I think we have to address next year. Last September 24 I introduced H.R. 3344, a bill to amend the Voters' Rights Act of 1965 making the preclearance requirements applicable to the voting rights as they exist today, in the 1990's, rather than 30 years ago.

I want to show the Members the congressional reapportionment map of Louisiana. If this is what we intended in the 1965 Voters' Right Act, I am a monkey's uncle. The Fourth District of Louisiana runs into six of the eight major markets in Louisiana. It runs like a snake through the whole State.

I have to say that I am going to fight this issue, and I am going to fight this issue through next year. Let us update the Voting Rights Act. Let us bring the States up.

Our legislature operated with a shotgun to their heads. They operated out of fear in drawing this plan. My Sixth District is drawn nearly as badly. I just simply want to say, let us create congressional districts that are drawn sensibly, the way they should be, and not create districts that were never intended to be.

THE NEED FOR A BALANCED BUDGET AMENDMENT

(Mr. PASTOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASTOR. Mr. Speaker, this debate is born out of desperation. In the last 7 years this body has struggled to enact statutory balanced budget requirements. Attempts to impose spending limits by Gramm-Rudman I and II, and by negotiated agreements between the President and the Congress, have failed because of our insatiable thirst to spend money we do not have. We even fought a war—the Persian Gulf war—off budget.

Do we need to amend the Constitution to balance the budget? Of course, we do not. Will we balance the budget without an amendment? Probably not. Will an amendment help us to achieve a balanced budget? Maybe.

We now have before us several choices for a balanced budget amendment. Of primary concern is the future of Social Security. I view Social Security as a covenant between the people and their Government; a covenant that should not be broken unilaterally. Therefore, Social Security must be self-supporting and off-budget. I also believe that the principle of majority rule need not be abandoned in order to achieve sound fiscal policy. Finally, the responsibility for developing a comprehensive Federal budget rests with the President. That need not and should not change.

I will vote for House Joint Resolution 496, the only choice that meets these criteria—protect Social Security, preserve majority rule, retain Presidential responsibility—to amend the Constitution to provide a balanced budget of the U.S. Government. The next step will be to agree on the enforcement mechanisms that will allow for the tough decisions.

A BALANCED BUDGET AMENDMENT WILL PRESERVE ENTITLEMENTS

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, we are going to be voting on a balanced budget amendment. We tried to pass a cap of no more than 2½ percent on every item last year, and not a single one passed. The House cannot chair itself. We are spending $3 billion per day. All the entitlements put together, we spend more on the interest of the deficit than we do on that.

We need to get back to a balanced budget. Can the Members imagine what this country could do with $1.3 billion a day? Both Republicans and Democrats get reelected by taking home the bacon, the pork. We cannot control ourselves in this House without a balanced budget amendment. We need to protect Social Security and those things, but if we get to a balanced budget then we will actually have more money for the entitlements that all of us hold dear.

I do not believe this House can police itself and cut the spending, because the name of the game is to get reelected and take home the bacon.

□ 1050

We need to run the House more like a business, a capital gains reeducation, reduce foreign aid to only those countries that benefit the United States directly.

SUPREME COURT BOWING TO ELECTION YEAR POLITICS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, in school we all learned that there were three independent branches of Government, that our forefathers and our foremothers were wise enough to demand that there be checks and balances, and that was the genius of this system.

Today, unfortunately, we only have two branches left. The Supreme Court is gone.

I was horrified to read that the Supreme Court, I think acting very politically, yielded to pressure, and is now not going to hear the case on clinical violence until next session, after the elections. Do Members suppose it could be because they are afraid American women would be very incensed if they did what they promised to do in order to get on the Court? I think so.

I think it is outrageous that we continue to tolerate letting people cut off women's access to health care by picketing, jeering, and sealing off different clinics around America. I am sure the Supreme Court is going to say that is OK, but they do not want to do it until after the election.

I think that is very sad, and I am sure our forefathers would not be pleased.

AGRICULTURE EXPORT LOAN GUARANTEES

(Mr. LANCASTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANCASTER. Mr. Speaker, the scandal of Iraq subverting agriculture export loan guarantees to the acquisition of arms continues to grow. Chairmen GONZALEZ and ROSE are pursuing this scandal within the jurisdiction of their respective committee and subcommittee. But, Mr. Speaker, it is time to appoint a special prosecutor to get to the bottom of this rotten mess.

Despite President Bush's Executive order prohibiting commerce with Iraq, the United States Government has paid millions, $360.7 million at this time, to an Italian-owned bank to make good on loans Iraq left unpaid after its invasion of Kuwait. Since the early 1980's, Presidents Reagan and Bush have used a sleepy little agriculture program to tilt in favor of Iraq in its war with Iran. Under this program, loan guarantees were subverted and exporters of agricultural products were required to purchase arms for the Iraqi's in return for getting the export business. When those loans came due and were unpaid by Iraq, the Bush administration has used hard-earned tax dollars to pay them.

Mr. Speaker, I am incensed by the abuse of this program, and incensed even more that we are making good on loan guarantees that were abused, but I am most of all upset that the Bush administration can pay $360.7 million to a foreign bank, while at the same time refusing to provide a paltry $30 million for emergency loans to small U.S. businesses directly impacted by Desert Shield/Desert Storm deployment in communities across this country. Congress authorized and appropriated those funds, but the Department of Defense stubbornly refuses to transfer those funds to the Small Business Administration to implement this con-

gressionally mandated program of assistance.

Let's put a special prosecutor in place who will leave no stone unturned, until every viper is exposed and killed. Furthermore, let's make certain the Agriculture Loan Guarantee Program is hereafter administered by USDA in a way which cannot be subverted as was done in this instance.

CLARIFICATION OF THE RECORD CONCERNING COMMENTS ON HOUSE POST OFFICE INVESTIGATION

(Mr. ROSE asked and was given permission to address the House for 1 minute.)

Mr. ROSE. Mr. Speaker, it has come to my attention that certain remarks that I made on the House floor on May 28 were not properly reported in the daily CONGRESSIONAL RECORD, specifically portions of the words that I spoke on the floor following the unanimous consent request extending the reporting deadline for the House Post Office investigation. They were not correctly reported.

A review of the videotape of my comments makes it clear that what I said was:

> And to this point, while there have been allegations, Madam Speaker, I have seen no evidence of any so-called ghost employees at the House post office.

These words were neither revised or edited, and I would therefore like the permanent RECORD to reflect these words as I actually spoke them. Apparently the Official Reporters of Debates did not modify the text of an earlier prepared statement to reflect where my spoken words varied from the text.

I, therefore, ask unanimous consent, Mr. Speaker, that the permanent edition of the CONGRESSIONAL RECORD be corrected to accurately reflect my words as spoken on the floor during the May 28 discussion.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from North Carolina?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so first to thank the gentleman from North Carolina for correcting the RECORD on this point. I, as the gentleman knows, have long believed that there is a need to make certain that the CONGRESSIONAL RECORD is accurate in terms of what was done on the floor rather than what we wish might have been done or as remarks may have been prepared. So I want to thank the gentleman for that, and I just want to make certain that the import of this would seem to me to be that what the gentleman is saying in the remarks that will now be in the corrected RECORD is that you have seen no such evidence of ghost employees? That does not mean the task force may not have gotten some information along this line, but you are reflecting your own personal viewpoint, is that correct?

Mr. ROSE. If the gentleman will yield, the gentleman is absolutely correct.

Mr. WALKER. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

SUPPORT FOR STENHOLM BALANCED BUDGET AMENDMENT

(Mr. RAY asked and was given permission to address the House for 1 minute.)

Mr. RAY. Mr. Speaker, my colleagues and 50 million or 60 million people who are looking at C-SPAN today, I want you to take a look at this chart right here to my right. The 1993 budget is $1.5 trillion. The 1993 estimated income is $1.15 trillion. The shortfall in the deficit for the next year is $350 billion. The national debt is $3.8 trillion. Interest on the debt while I speak is $200,350,000, and that is $26 million per hour, $200 billion per year.

Mr. Speaker, H.R. 5333, the Stenholm balanced budget amendment, is the first step in the process of a balanced budget amendment and 292 Members are signed up. The train is about to leave the station, and we are looking for a lot more Members to sign up today, and I urge them to do so.

PRESERVE OUR NOBLE CONSTITUTION

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker:

> We the people of the United States, in order to form a more perfect Union, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, to ordain and establish this Constitution for the United States of America.

We all recognize these words. They are the opening words to the greatest political document ever written, the U.S. Constitution. Throughout our history, it has been the Constitution which has provided us with a framework for our Government and our society. Through both good times and bad, political hysteria, and even through a Civil War that divided us, it was the Constitution that held our democracy together.

We hold the Constitution in great reverence and we don't take changing it lightly. In the past 200 years we have amended it 16 times. The House has only voted on 10 constitutional amendments since I arrived here in 1964. The Constitution was not intended to respond to the political whims of the times. It was intended to be a framework by which to govern.

Some would now have us change the Constitution by adding a balanced budget amendment. There is considerable outrage in this country over the size of the budget deficit, outrage which I share, but the balanced budget amendment is not the solution. The balanced budget amendment is merely a hysterical reaction to our current spending problems, and reaction to current events is not a valid reason to amend the Constitution.

A couple of years ago the Supreme Court ruled that flag burning was protected speech under the first amendment to the Constitution. The country, as well as many Members, were outraged. There was a cry to amend the Constitution. "Change the first amendment," some said.

Well, we did not amend the Constitution. We did not respond to the hysteria of the moment. I voted against that amendment as I will vote against this amendment, because that is all the balanced budget amendment is, a response to the hysteria of the moment. Mr. Speaker, I have too much respect and too much love for the Constitution to saddle it with this amendment.

We all know what the problem is here. It isn't that the Constitution won't let us balance the budget. It is that we can't, or won't, balance the budget. Through 12 years of Republican administrations the President has yet to submit a balanced budget, or anything close to it. And the Congress hasn't done much better. Neither the Congress nor the President have had the guts to make the tough decisions necessary to balance the budget. The balanced budget amendment would be a cover, a shield, to cover up for the lack of leadership shown by Government.

A balanced budget amendment is not the answer to the deficit. More responsible spending is the answer. The balanced budget amendment is an insult to the Constitution. Vote "no" on House Resolution 290.

□ 1100

BUSH ADMINISTRATION FAILING LEADERSHIP TEST ON UNCED

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, in 1984, the Reagan administration went down to the U.N. Conference on Population and Development in Mexico City and told the world that voluntary family planning was no longer needed. In a moment, all the work of 25 years under Republican and Democratic adminis-

trations alike was undone and U.S. leadership on population was lost.

In 1992, the Bush administration has gone down to the U.N. Conference on Environment and Development in Rio de Janeiro and told the world that concerns about global climate change, preservation of the rain forests and the world's biodiversity, and protection of the oceans are no longer serious concerns of the United States.

Does this reflect American values? The leaders of American business and industry I know are people of vision who care deeply about the kind of planet they leave for their children and grandchildren.

At a time when the world hungers for leadership and inspiration to bring us together working for a better life on this planet for all people, at a time when U.S. influence in the world has never been greater, this administration is proving an embarrassment.

BALANCED BUDGET AMENDMENT INEVITABLE

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, if you have been here a long time, you have got a right to philosophize. I will philosophize this morning by saying that although I feel it is unfortunate we have to have a balanced budget amendment, I think it is inevitable that we should, because practice shows that we cannot live within our present constitutional provisions.

I vigorously hope that everybody will be behind a constitutional amendment, and that it will work.

Now, to think that this is going to leave our Government just like it was will not be realistic. The process has to be changed. It will be a situation in the future where States will have a greater part to play in their Government, and I am not so sure that is not a good idea. I believe we have a federated government, and what we are doing now is not working. So we should get something that makes our federated Government work.

I hope everybody will band together to get a good constitutional amendment and make it work.

THE REAL COST OF A BALANCED BUDGET

(Mr. BLACKWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKWELL. Mr. Speaker, I rise today to voice some real concerns coming from my congressional district about the balanced budget amendment.

In this year of heated political debate, an amendment to our Constitution to balance the Federal budget seems to have crept up behind us from nowhere, and is about to swallow this great body, sending us into days of confrontational debate.

Well, Mr. Speaker, I implore my colleagues to further examine the amendment offered by Mr. STENHOLM before we put the poison pen to the sacred paper that represents the heart and soul of this great Nation.

Make no mistake. Adoption of this misguided proposal will put the nail in the coffin of the millions of elderly Americans who rely on Social Security every day as the bulk of their financial existence. At what cost, Mr. Speaker, must we achieve this short-sighted, so-called fiscal responsibility?

We have seen it so many times during the course of the last 12 years. The implementation of heinous economic policies which at times seem to be nothing more than a smokescreen to cloud the unrestrained cutting of our Nation's social programs.

I urge my colleagues, on behalf of the children, the poor, and the elderly, who so often fall in the cracks of such thoughtless policies, to recognize the potential for the destruction of our Nation's Social Security system.

FUTURE GENERATIONS MOST AFFECTED BY BALANCED BUDGET AMENDMENT

(Mr. CARPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARPER. Mr. Speaker, a word or two in response to what we just heard from my friend, the gentleman from Pennsylvania.

There are many of us who are being called by a variety of special interest groups, some of them very powerful, lobbying against consideration of an amendment to the Constitution to, first, require the President to propose a balanced budget; and second, to make it somewhat more difficult for the Congress to unbalance that budget.

There is one group we have not heard from in this debate. We have not heard from my 2-year-old son, Ben, and we have not heard from my 4-year-old son, Christopher. We have not heard from any of your children. We have not heard from the grandchildren of the senior citizens who are calling on us to not adopt this balanced budget amendment.

That next generation, those young kids, need to be heard from. They are not members of a special interest group. They do not have a PAC. They do not write or phone us. But they have lives to live, and we are undercutting their future if we allow the tide of red ink to continue.

We need the kind of restraint that this amendment provides for us. We do not need an economic straitjacket. We do need leadership from the President. We do need to make it more difficult for Congress to unbalance the budget.

I have been here for 10 years. I came here not convinced that we need this kind of restraint. We do. I am a believer. The experience of the past 12 years should have convinced us all.

SACRIFICE NEEDED FOR THE GOOD OF ALL

(Mr. HAYES of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Louisiana. Mr. Speaker, this Government is both broke and broken. Fifteen cents on every dollar that you pay in taxes goes toward unproductive debt service, and it is broken because the mechanism of change does not function.

So we look back two centuries to a Constitution framed by people who, next to their signature, put the simple statement, "On public service," public service reflecting what they thought to be the best interests of a nation and not necessarily the whims or desires of those who, on electing them, felt that their individual needs outweighed the collective need.

There are people who will be harmed by tough decisions, and those who are to be harmed are going to have to commit an individual sacrifice so that subsequent generations will have what those Framers referred to as the blessings of liberty bestowed upon them. If we cannot sacrifice enough to balance the budget, then I assure you, instead of doing some harm to some, we will do total harm to all.

CONSTITUTION MUST FORCE US TO MAKE HARD DECISIONS

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, we heard this morning some people say that if we pass a constitutional amendment to balance the budget, we will be trivializing the Constitution of the United States.

Yesterday, the gentleman from California [Mr. PANETTA] said that we were showing a lack of guts by trying to pass a constitutional amendment to balance the budget. The fact of the matter is, I say to my colleagues, we have not had any guts in the past. We have not decided to prioritize spending around this place, I say to my colleague, the gentleman from California [Mr. PANETTA], and that is the reason we are in the fix we are in today.

Ten years ago we brought in $500 billion in tax revenues. Now it is over $1 trillion a year in tax revenues. Yet, we are still running $400 billion a year into the tank.

As the gentleman just said on the floor before me, we are leaving a ter-

rible legacy to the future generations of this country. Why? Because we do not have any guts. We have not had any guts to make priorities a priority around this place.

We have to make our decisions, and since we cannot do it on our own, we have to put some teeth into the Constitution to do it for us, to make us make those hard decisions.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 290, PROPOSING AN AMENDMENT TO THE CONSTITUTION TO PROVIDE FOR A BALANCED BUDGET

Mr. STENHOLM. Mr. Speaker, pursuant to the unanimous consent agreement offered by the gentleman from Missouri [Mr. GEPHARDT] and the order of the House of Thursday, June 4, 1992, I call up the resolution (H. Res. 450) providing for the consideration of the joint resolution (H.J. Res. 290) proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation, and ask for its immediate consideration.

H. RES. 450

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 290) proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation, all points of order against the joint resolution and against its consideration are hereby waived, and the first reading of the joint resolution shall be dispensed with. After general debate, which shall be confined to the joint resolution and which shall not exceed four and one-half hours, to be equally divided and controlled by Representative Brooks of Texas, Representative Fish of New York, and Representative Stenholm of Texas, or their designees, the joint resolution shall be considered for amendment under the five-minute rule. No amendment to the joint resolution shall be in order in the House or the Committee of the Whole except for the following amendments, which shall be considered only in the following order, and which shall not be subject to amendment:

(a) an amendment in the nature of a substitute by, and if offered by, Representative Fish of New York, or his designee. This amendment shall be debatable for no longer than one hour to be equally divided and controlled by the Member proposing the amendment, or a designee, and a Member proposing the amendment, or a designee, and a Member opposed thereto;

(b) an amendment in the nature of a substitute by, and if offered by, Representative Barton of Texas, or his designee, which may be offered notwithstanding the adoption of the amendment in the nature of a substitute as made possible under section 1(a). This amendment shall be debatable for no longer than one hour to be equally divided and controlled by the Member proposing the amendment, or a designee, and a Member opposed thereto;

(c) an amendment in the nature of a substitute by, and if offered by, Representative Brooks of Texas, or his designee, which may be offered notwithstanding the adoption of the amendments in the nature of a substitute as made possible under section 1(a) or section 1(b). This amendment shall be debatable for no longer than one hour to be equally divided and controlled by the Member proposing the amendment, or a designee, and a Member opposed thereto;

(d) an amendment in the nature of a substitute by, and if offered by, any Member, which shall be the text of any comparable joint resolution as passed by the Senate, and which may be offered notwithstanding the adoption of the amendments in the nature of a substitute as made possible under section 1(a), section 1(b), or section 1(c). This amendment shall be debatable for no longer than one hour to be equally divided and controlled by the Member proposing the amendment and a Member opposed thereto;

(e) an amendment in the nature of a substitute by, and if offered by, Representative Stenholm of Texas, or his designee, which may be offered notwithstanding the adoption of the amendments in the nature of a substitute as made possible under section 1(a), section 1(b), section 1(c), or section 1(d). This amendment shall be debatable for no longer than one hour to be equally divided and controlled by the Member proposing the amendment, or a designee, and a Member opposed thereto.

At the conclusion of consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution back to the House. If more than one of the amendments in the nature of a substitute have been adopted in the Committee of the Whole, only the last such amendment shall be considered as having been finally adopted and reported back to the House. The previous question shall be considered as having been ordered on the joint resolution and such amendment thereto, to final passage without intervening motion except one motion to recommit, with or without instructions.

SEC. 2. If the Committee rises on any day without coming to a final resolution on the joint resolution, the House shall, on the next legislative day, following House approval of the Journal, immediately resolve itself into the Committee of the Whole on the State of the Union for the further consideration of the joint resolution.

SEC. 3. If a comparable joint resolution has been passed by the Senate, it shall be in order at any time after House consideration of H.J. Res. 290 for Representative Stenholm or his designee to move for immediate consideration of such Senate Joint Resolution and to move for concurrence in the passage of such Senate Joint Resolution, with or without amendment but, if with an amendment, then such amendment shall strike all after the resolving clause and substitute therefor the text of H.J. Res. 290 as passed by the House.

SEC. 4. Consideration, in accordance with the provisions of this resolution, of the joint resolution and any comparable joint resolution passed by the Senate shall be a matter of highest privilege in the House and shall take precedence over any other motion, business, or order of the House, and the House shall proceed with such consideration to final passage, without the intervention of any other motion, order, or business, except as otherwise provided for in this resolution.

□ 1110

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Texas [Mr. STENHOLM] is recognized for 1 hour.

Mr. STENHOLM. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished chairman of the Committee on Rules; also for purposes of debate only, I yield 15 minutes of my time to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, all time yielding during debate during House Resolution 450 is for the purpose of debate only.

Mr. Speaker, the rule which 218 Members of this body discharged on May 20, House Resolution 450, allows for a full debate of the major alternative proposals for a balanced budget amendment to the U.S. Constitution. By unamious consent, that rule already has been amended to expand the general debate time from 4½ hours to 9 hours, with the relative division of the time maintained as stated in House Resolution 450.

House Resolution 450 allows for the following: All points of order are waived; there will be 9 hours of general debate, divided equally between Mr. STENHOLM, Mr. BROOKS, and Mr. FISH.

It will be in order to consider of the following five amendments in the nature of substitutes, in king-of-the-hill fashion:

First, a substitute offered by Mr. FISH, ranking Republican of the Judiciary Committee, or his designee. Debatable for 1 hour.

Second, a substitute offered by Mr. BARTON, or his designee. Debatable for 1 hour.

Third, a substitute offered by Mr. BROOKS, chairman of the Judiciary Committee, or his designee. Debatable for 1 hour.

Fourth, a comparable BBA already passed by the Senate, if any. Debatable for 1 hour.

Fifth, a substitute offered by Mr. STENHOLM, principal sponsor of House Joint Resolution 290. Debatable for 1 hour.

Of course, passage of any amendment in the nature of a substitute can be accomplished with a simple majority vote. Final passage of the constitutional amendment, however, requires a two-thirds vote.

A motion to recommit, with or without instructions, is permitted. However, according to the rule, any instructions must be confined to the language of one of the amendments offered in the Committee of the Whole, since the language of the rule refers in each instance to "an amendment." In short, the rule does not allow any member to offer a new amendment through instructions in the motion to recommit.

Once begun, consideration of House Joint Resolution 290 is a matter of the highest privilege and must be com-

pleted without the intervention of any other motion, order or business.

In drafting this rule, the supporters of House Joint Resolution 290, the Stenholm-Smith amendment, had two fundamental concerns. First, we wanted to ensure fairness on this extremely important issue of amending the Constitution. We felt it was imperative that there be a full airing of all views within this body about the subject. We felt that it is important that there be fair representation along party lines, as well as some representation of the degree of support among House Members.

Second, we felt that the amendments chosen should reflect the leading ideas for balanced budget amendments. That was why a slot was reserved for the Barton-Tauzin amendment which, by far, has the next highest amount of support in the House of Representatives. While the chairman and ranking Republican members of the Judiciary Committee, the committee of jurisdiction, did not have balanced budget proposals, we felt it was important to reserve for them, or their designees, the option of offering amendments.

This rule is fair, it is complete, and it has already been supported by 218 Members who signed the discharge petition. I urge all of my colleagues to support House Resolution 450.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I thank the gentleman from Texas for yielding me time. He has been honorable and candid throughout the process and I appreciate the way he has handled the situation.

Mr. Speaker, I cannot support the rule. The division of time is unfair and other elements of the rule are unusual and unjustified. Frankly Mr. Speaker, I am surprised at some who do support the rule. Members of the minority advocating a rule that limits the motion to recommit comes as a real surprise to me. I think I will just have to file this one away.

But I am a realist. The gentleman from Texas filed a discharge petition, got his 218 signatures the very same day, and here we are. I know this rule will pass and most Members are eager to debate the constitutional amendment, not the details of the rule.

Mr. Speaker, I do not support a constitutional amendment to require a balanced budget. I hasten to add: today's deficits are unacceptable. We increase the national debt at the rate of $1 billion a day. Deficits of this size are a drag on economic growth. Deficits of this size lower our standard of living, weaken our competitive position, and constrain our ability as a nation to answer our domestic and international needs.

The size of the deficit is the problem. If we are borrowing too much, the solution is real deficit reduction. There can be no substitute. No mandate established in the Constitution, no pretty new procedure set forth in the law of the land, can do the work of real changes in our spending habits and our tax policies.

The best face proponents put on the constitutional amendment is that it will fortify our will to do the right thing.

A balanced budget, however, is not always the right thing to do. Even the proponents admit as much.

The spending cuts and burdensome tax hikes necessary to reach a balanced budget this year would cripple an already weak economy. No one seriously calls for $400 billion in immediate deficit reduction. In fact, every constitutional amendment I have seen allows a transition period. The transition period is an admission it is wrong to insist on a balanced budget this year.

If we agree it would be dangerous to balance the budget today, balancing the budget may also be dangerous tomorrow and it ought not to be required by the Constitution.

We borrow much too much. What we spend it on may be wrong as well. But it is not always wrong to borrow.

Every State issues bonds of some sort, even States with balanced budget constitutional amendments.

Proponents say that families and businesses must balance their budgets. In fact, good businesses borrow to expand and modernize. Decent families borrow to buy a house or a car or to pay for their kids' education. There is nothing wrong with borrowing for good purposes.

Yes, we have mismanaged our fiscal policy. Yes, we must cut spending. Yes, we ought to pay for today's consumption with our own dollars, not our children's. And yes, we need stiffer backbones.

But even if we need a legal mandate to mend our ways and reduce the deficit, I still deny we ought to enshrine in the Constitution the goal of a balanced budget. To propose an amendment, knowing that it should not always be enforced, is the worst form of cynicism.

Mr. Speaker, I urge a "no" vote on the rule.

Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. SOLOMON. Mr. Speaker, the reason I ask for the parliamentary inquiry is that I was a little confused about the debate time that is being allowed under this rule. I did not hear it when the Clerk read it.

How much time is being allowed for general debate on the bill?

□ 1120

The SPEAKER pro tempore (Mr. MONTGOMERY). There are 9 hours on the bill itself and 1 hour on this resolution, and the Chair recalls that the gentleman from Texas [Mr. STENHOLM] controls the time. He yielded 15 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. In regard to my parliamentary inquiry, Mr. Speaker, I was just reading from the June 4, 1992, CONGRESSIONAL RECORD, a statement by the gentleman from Missouri [Mr. GEPHARDT] in which he said:

> I ask unanimous consent that the period of general debate provided for in House Resolution 450, if adopted, be expanded to 9 hours, to be equally divided.

I just wanted to point out that it is not the minority that asked for this. Therefore, I think it was a fair request by the majority leader to expand the time.

Mr. Speaker, I yield myself 4 minutes and yield to the gentleman from Oregon [Mr. SMITH], a driving force behind this amendment.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] may ask for unanimous consent to control the time, and then he can designate the individual.

Mr. SOLOMON. If that is necessary, Mr. Speaker, I ask unanimous consent to be able to control the time that has already been allocated to me by the distinguished gentleman from Texas [Mr. STENHOLM].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Speaker, I yield myself 4 minutes and yield to the gentleman from Oregon [Mr. SMITH], the driving force behind this amendment, along with the gentleman from Texas [Mr. STENHOLM].

Mr. SMITH of Oregon. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], my friend, for yielding to me.

As my colleagues know, this is going to be a great day for us in this House and a great day for this country.

This is a fair rule; as my colleagues have heard, the time is divided on a bipartisan basis. It could not be any fairer.

Mr. Speaker, at the end of it all tomorrow we are going to vote for a balanced budget amendment to the Constitution of the United States. We are going to pass it. We are going to follow what 77 percent of the American people want.

I ask my colleagues, "Isn't that what this is all about? Representative government?" For once, Mr. Speaker, Congress is going to look out into the future in the long term, not react to just the short-term programs.

This is change. This is change. People are demanding change in America.

We want change as well. We are going to nullify this Government. We are going to suggest that the President of

the United States offer a balanced budget and the Congress offer a balanced budget. This is unification of the President, the executive, and the legislative branch.

So, is it wrong to control deficits and the debt? If that is dangerous, then let us be dangerous. It is going to be a great day for America, and it is going to be especially a great day for our children.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Oregon [Mr. SMITH] for his statement.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair informs the gentleman from New York [Mr. SOLOMON] that he received unanimous consent to control the time which has already been allocated to him by the gentleman from Texas [Mr. STENHOLM]. The gentleman from New York [Mr. SOLOMON] does not have to stand up after yielding time to the gentleman from Oregon or other Members. He controls the time, and he may sit, stand, or whatever he wants to do.

Mr. SOLOMON. I thank the Chair. I had yielded myself the time, and then yielded to the gentleman from Oregon, but, if I might, then I will continue, under my request, to yield myself 4 minutes.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 4 minutes.

Mr. SOLOMON. Mr. Speaker, in rising to support this rule and the balanced budget amendment, I would like to really pay tribute to the gentleman from Texas [Mr. STENHOLM] for his tireless efforts in bringing this issue finally to the floor.

I hate to say it, Mr. Speaker, but America does not trust its own Congress anymore. America knows that Congress will not, it cannot, control Government spending. That is why poll, after poll, after poll shows that the American people want a balanced budget amendment to the Constitution. And they want it now, not tomorrow, not next year.

Mr. Speaker, this was the first resolution I introduced when I came to this Congress in 1979, along with the gentleman from Texas [Mr. STENHOLM]. Things were already bad then. But I never dreamed that we would soon have a $400 billion annual deficit piled onto a $4 trillion total deficit.

Mr. Speaker, the deficit is a disgrace. I say to my colleagues, "The blame belongs right here, and, ladies and gentlemen, the American people know it. You know it if you go home outside this beltway every single weekend like I do. The people are not going to be fooled by gimmicks like budget summits, and they're not going to be fooled by statutes that can be ignored, or bypassed or overturned. They want enforcement provisions and guarantees that we will not simply raise taxes to allow more spending."

Mr. Speaker, if the American people do not get these things, they are going to throw a lot of us out this coming election; and we will deserve it, believe me.

I want to commend my classmate, the gentleman from Texas [Mr. STENHOLM], for getting this amendment on the floor. We are going to pass it tomorrow, and it is going to go to the Senate. The American people are going to demand that the Senate pass it too.

So, I urge support of the rule, and I urge support of the balanced budget amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise in support of the rule and in strong support for a constitutional amendment to balance the budget. I, personally, have introduced such an amendment to the Constitution in each Congress since first being elected to the House of Representatives in 1976.

Over the last decade, Congress has tried repeatedly to curb deficit spending. But as we have seen, Gramm-Rudman I, Gramm-Rudman II, and the 1990 Budget Enforcement Act, all have failed in their intent to tame the deficit.

With passage of this amendment, we have the opportunity to give Congress and the President the backbone to make the tough, necessary decisions to balance the budget. This Constitutional amendment will not allow Congress to continue along its current path of amassing an uncontrollable budget deficit.

I urge my colleagues to support the Stenholm amendment and force Congress and the President to act fiscally responsible and balance the budget so that we do not pass a mountain of debt onto our grandchildren.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 10½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding this time to me.

Mr. Speaker, I rise today in support of taking an action that I would much prefer was not necessary. I rise in support of amending the Constitution to provide for a balanced budget.

In 1982 and 1990, I voted against such action. I spoke and worked against the adoption of a Constitutional amendment using much of the same rationale of today's opponents contained in speeches on this floor and in editorials in many of our most respected newspapers. I have concluded, however, that my obligation to our future and to our children demands decisive and decidedly different action to affect a change in the way we have been conducting the fiscal business of our country.

I believe our evergrowing annual operating deficits, estimated to be approximately $400 billion this year alone, pose one of the most significant threats to our health as a nation and America's ability to have a vibrant domestic economy and to be competitive in our global economy.

The results of our failure to pay as you go over the past 12 years are staggering. And, although oft repeated, they bear, in my opinion, being reiterated:

First, in a short 12 years, we have gone from a national debt of $914 billion to one of $3.701 trillion—a 400-percent increase. We have now unfortunately become the world's largest debtor.

Second, the national debt has gone from 26.7 percent of the gross domestic product to 52.2 percent, almost doubling it.

Third, net interest on the deficit has increased from 8.9 percent of our budget to almost 14 percent.

Fourth, in constant 1987 dollars, military spending has gone up a third, entitlements and mandatory spending has gone up about 40 percent, interest payments have increased a whopping 118.9 percent, and at the same time, domestic discretionary spending has decreased 4.5 percent.

□ 1130

The only item in our budget that has gone down has been our investment expenditure. The money for education, for health research, for immunization of children, space exploration, Head Start, efficient revenue collection, job training, housing, agriculture, and literally a thousand other priorities that our society needs Government to perform.

I believe, Mr. Speaker, the primary responsibility for this fiscal debacle lies with Presidents Reagan and Bush. Both have failed to present to the Congress, or to the American people, budget plans which merited or received their support. Indeed not even their own party supported them.

The four budgets voted on by the House as Presidents Reagan and Bush submitted them received: In 1985, 1 vote; in 1987, 12 votes; in 1988, 27 votes; and, most recently, 42 votes in 1992. The 1992 vote was a high-water mark when only 25 percent of the President's own party supported his fiscal plan for the Nation. And, of course, neither ever submitted a balanced budget to the Congress.

In response to the President's requests over those 12 years, the Congress, as we all know, has appropriated less money than the President requested. But, in the face of a lack of leadership from the President, collectively the Congress also failed to stem the hemorrhage of red ink that threatens to drown our children, our economy, and our future.

We have attempted, as many have said, numerous legislative fixes over the years, and they have not worked.

My good friend, LEON PANETTA, for whom I have the greatest respect and affection, has correctly stated that what we need to get our fiscal House in order is the courage to make the tough votes required to adopt a fiscally sound budget plan. He is clearly correct. The stark fact, however, is that even in the best of times, we have failed to stem deficits at any time since 1960.

As the Washington Post observed in its editorial opposing a constitutional amendment:

> . . . The interest on the debt is now a seventh of the budget and crowds our other spending. The deficit restricts the economy and the ability to govern, both at the same time.

However, its conclusion was, as is Chairman PANETTA's, that a constitutional amendment "should not become the permanent monument to a temporary failure of political will."

The Baltimore Sun even more harshly characterized the consideration of a balanced budget amendment as a—

> cynical hypocritical gesture, from a bunch of politicians who are in the process of approving a $400 billion deficit.

And they have a point.

But the same editorial goes on to add:

> . . . If this newspaper thought a balanced budget amendment would fulfill its promise, we would back it to the hilt.

They then outline the failure of legislative enactments to curb the deficits and add:

> Given this sad history, a constitutional amendment regulating a balanced budget is increasingly tempting since the present system is bankrupt, since the Nation's security and economic well being are at risk, since large borrowing increasingly divert the Nation's resources to the wealthy, at home and abroad, drastic action is necessary.

This is suggested by the Baltimore Sun, but they balk at an amendment.

I have concluded, too, that drastic action is necessary. And an amendment is the only alternative I see forcing the President, the Congress and the American people to come to grips with the excruciatingly difficult decisions we must make to put our Nation's finances in order.

It is my intention, I say to my colleagues, to support the Gephardt-Bonior-Obey amendment. I am pleased that it does not have a provision for any extraordinary majority for the Congress to accomplish either a balanced budget or spending beyond revenues, if that is required by the national economy or for security reasons. But, I would note that even then one person, the President, and a third of only one House of the Congress can thwart the will of the majority. The minority's ability to impose its will was contemplated and provided for by our Founding Fathers. And although I will support the Obey-Gephardt-Bonior amendment, I regret its exclusion of a significant part of the Government's expenditures from its coverage.

Again, because I believe decisive, some would say drastic, action is necessary, if Gephardt-Bonior-Obey fails to receive the support of two-thirds of my colleagues support, I will support the Stenholm amendment, which I like less because of its requirement for votes of 60 percent of each House to take certain fiscal actions.

If the Stenholm amendment ultimately passes, I will urge the Senate and the conference committee to modify it to make it more workable and more precise, before it is ultimately considered for final passage and transmission to the States.

I am well aware that the sponsors of that amendment are attempting to preclude that opportunity. I hope they fail in that effort. This is a serious step we take, requiring, it seems to me, the most serious consideration at every step of the way, including the conference committee.

Mr. Speaker, as I have told many of my good friends who have asked my view of the balanced budget amendment, I have a great fear that my 5-year-old grandchild's inheritance, and that of her contemporaries, is being robbed by our generation, not just by those of us who sit in this House or those who sit in the Senate of the United States, but by all Americans who expect to "buy now and pay later." That time is up. It is immoral for us to do so. It is as, well, irresponsible and unfair.

A recent GAO report referring to the budget deficits has said that "inaction is not a sustainable policy." The American people agree; and agree emphatically.

That same GAO report, Mr. Speaker, warns that "The economic and political reality is that the Nation cannot continue on the current path" and that "the sooner action is taken to bring the deficit under control and to make the composition of Federal spending more conducive to investment, the less the sacrifice and the greater the benefit."

The amendment will not be a substitute for action, nor a magic provider of courage, as Mr. PANETTA so aptly observed, but, no one should doubt that it will be a compelling mandate for those sworn to preserve and protect the Constitution. And, in addition, it is consistent with the observation made by Thomas Jefferson that:

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

Because of that, when my name is called, I will vote for this constitutional amendment.

Mr. Speaker, I agree with those sentiments. And because I believe the President and we have not met our individual and collective responsibilities to both this generation and the generations to succeed us, this year I will support a balanced budget amendment.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Speaker, let me say to my friends, no two ways about it, this country is in desperate shape. The deficit is going to approach $400 billion this year. We have lost control of it. We cannot tax our way out of it.

Imagine trying to raise $400 billion in taxes in 1 year, 2 years, 3 years, 4 years, or 5 years. We cannot tax our way out of it. We cannot inflate our way out of it. Think about this. If we were to devalue our dollar to try to inflate our way out of it, it would probably cause a revolution in this country.

We cannot cut our way out of it. In this Government, this Congress, the administration and the Government of which I am a part, we do not have the guts or the intestinal fortitude to make the cuts that are necessary.

□ 1140

So if we do not pass this balanced budget amendment today, the basic Stenholm amendment, hopefully improved by the strengthening amendments, we are going to have a financial collapse

Now, how does one occur? What is the only thing that holds financial markets together? It is confidence.

Do Members remember what happened on October 19, 1987, when we were in a lot better shape, for no apparent reasons, and no one has really been able to put their finger on the reason yet. All of a sudden the Dow started going down. And when the bell rang at 4 o'clock, she was down 508 points.

The next day, when the market opened, it continued to go down. And at 11:30 on October 20, 1987, Big Blue, the greatest stock in the world, quit trading.

The same thing can happen to us with the lack of a balanced budget amendment. Any Monday, one of these Mondays when the Treasury goes in there to refinance its debt, something is going to happen in Tokyo, maybe a rumor in France, a bad word in London. There are going to be no bidders.

We are going to try to refinance that $40 billion of debt and pay off those security holders whose debt securities are coming due to cover those checks that were written the previous week, and it is going to be Katie, bar the door.

All those checks that had been written and sent out, they are going to start bouncing and flipping all over the place. We are going to have a financial meltdown in this country.

A lot of people may sneer and say, "It can't happen." Remember back

what happened on October 19 and 20, 1987, just so recently, when we almost had a financial meltdown in this country.

So I am going to vote for those amendments which strengthen the basic Stenholm amendment, and I am going to vote against Gephardt, which is nothing more than a killer amendment. And for gosh sakes, for all America, for the health and wealth and the future of our country, vote against Gephardt and for whatever we come out with hopefully Stenholm strengthened.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from New York [Mr. SOLOMON] has 8½ minutes remaining, the gentleman from Texas [Mr. STENHOLM] has 11 minutes remaining, and the gentleman from Massachusetts [Mr. MOAKLEY], the chairman of the Committee on Rules, has 16 minutes remaining.

Mr. STENHOLM. Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I rise in very strong support of the rule and for the constitutional amendment to balance the budget proposed by the gentleman from Texas [Mr. STENHOLM].

Mr. Speaker, I have been in the U.S. Congress now for 4½ years. I remember so well running for the U.S. Congress just 5 years ago. I endorsed the constitutional amendment to balance the budget at that particular time because I felt like we needed it. We did not have $400 billion deficits just 5 years ago, and we did not have this outrageous spending that we have today, and I feel that much stronger than I have ever felt that we must move in that direction.

Mr. Speaker, we must move in that direction, because we are not controlling spending. The executive branch, they have never proposed a balanced budget. Neither has Congress enacted a balanced budget. We have had irresponsibility in both areas.

We also know that everything that has happened has not helped us at all. We know of the fact that we have not shown any constraint at all.

Every one of us, all 435 Members of the House of Representatives, every one of us has a different idea where to cut costs. We have some good intentions. We all want to cut costs, but we all want to cut costs in a different way.

And what happens? Nothing happens, and the budget deficits continue to climb. That is why when I am at home in Nashville, TN, in the Fifth Congressional District, and when I am at townhall meetings, and when I am with business executives, the message is the same: for God's sake, reduce the budget deficit.

Why do we need the balanced budget amendment? Because the American people do not have the confidence in the ability of the Federal Government—both executive and legislative branches—to address the Nation's fiscal problems. Who can blame them? This Government has not balanced an annual budget since 1969.

If we fail to pass a balanced budget, our standard of living, our schools, our infrastructure, our transit systems, our way of life, are in jeopardy.

Our inability to enact a balanced budget from one fiscal year to the next threatens the U.S. potential for economic growth and—just as important—it hinders us from addressing the serious societal problems we face.

Some have argued that the enactment of a constitutional amendment requiring a balanced budget would jeopardize the Social Security trust fund because Congress would loot the trust fund to reduce the deficit. Nothing could be further from the truth. First, there is nothing in the Stenholm amendment that says that we have to raid the Social Security trust fund to balance the budget. However, if any Member proposed to dip into the Social Security trust fund I would vote against it faster than you can blink an eye.

Second, if we continue with business as usual, with deficits hovering around $200 billion, we must ask ourselves what can we do to correct the problem. And what we can do to correct the problem is to pass this balanced budget amendment, support the Stenholm language, and move us in the direction of economic stability and strength once again.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the honorable gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Speaker, we are about to embark on what I think is the most important and serious debate that the House of Representatives can engage in, which is whether or not we are to amend the Nation's most sacred document, our Constitution.

This is a very serious step. It involves obviously implications for the interpretation of this amendment, as well as our court system, as well as the potential for a constitutional crisis. And for those reasons, this is a most serious debate.

We are now talking about the rule to consider that kind of constitutional amendment. It would seem to me that such a rule ought to provide for very open debate. It ought to allow for amendments and consideration of all substitutes. It certainly ought to allow for discussion of enforcement of this kind of constitutional amendment.

Let me share with Members my greatest fear here. My greatest fear is that this amendment does not represent change at all, and that the American people will understand that. That, in effect, what we are doing is relying on the same old gimmick, the same old scam, which is to adopt an amendment that does not involve serious choices in order to convey a message back to our constituents that somehow we are really serious about balancing the budget.

I have looked at this amendment, and I urge all Members to look at the amendment. There is nothing in the amendment that says how we get to a balanced budget. Nothing in here says that. The only way you get to a balanced budget is to make tough choices on policies.

□ 1150

I had urged the authors of this amendment to allow us to debate policy decisions, to debate enforcement at the same time that we debate this constitutional amendment. That is the way to deal with this issue.

The answer was no, no. We want to talk about the constitutional amendment, but we do not want to talk about the policy decisions. We want to talk about the constitutional amendment, but we do not want to talk about enforcement.

Does that not say something to the American people about whether or not this is real, when the authors want to talk about a constitutional amendment but they do not want to talk about the choices that we need to make in order to truly balance the budget?

Second, if we are going to deal with an amendment, should we not know what is in that amendment? We have not seen a finalized copy of this amendment in the RECORD until today.

There are six major changes in this amendment from the one that was proposed by the gentleman from Texas—six major changes. Is that the way we are going to change the Constitution, is to sneak into the RECORD six changes that involve judgments about whether or not we can determine receipts and outlays?

Let me just mention one, section 6:

> The Congress shall enforce and implement this article by appropriate legislation which may rely on estimates of outlays and receipts.

That means this is not a balanced budget amendment, if we are going to rely on estimates of outlays and receipts. We could end up at the end of the year being out of balance and not in violation of this amendment.

In addition to that, it requires that the Congress pass what? Legislation to implement it. If I have heard it once, I have heard it 1,000 times: "We don't want to rely on legislation. We want to rely on the Constitution, because legislation doesn't work here."

And yet what do we have here, an amendment that depends on legislation to make it work. For goodness sakes, this is changing the Constitution of the United States. Let us do it with care.

We are about to embark on this debate without a full debate on policies

and choices, without the full opportunity to be able to consider enforcement and other options and without equal time divided between both sides.

Those who argue for a constitutional amendment argue that this is the ultimate answer for guts, for spinelessness, for the budget, for the future, and for our children. This is a bad way to start off that kind of debate.

For that reason, I intend to oppose this rule.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding time to me.

I proceed along this constitutional amendment path very deliberately, very cautiously. I do not rush to the Constitution with amendment pen in hand just for the sake of amending this time-honored document. But this Congress and this country is in financial distress, Mr. Speaker. And we are in this precarious position because the Congress of the United States lacks the resolve, lacks the discipline to get our fiscal house in proper order.

We have not come to this precipice overnight. For many years this Congress has been content to collect $5 million, spend $10 million, and then ask incredulously why we are plagued with deficits. How long, oh, how long can we continue to walk this delicate line? Not very long, I fear.

As we pursue this constitutional amendment course, admittedly we are assuming some risks, but I believe we have no other choice.

Some opponents hoist their flags of fear by claiming such an amendment will be detrimental to Social Security. This is the fear tactic approach at its lowest level.

This amendment, Mr. Speaker, will in no way adversely affect Social Security. And if it did, I would abandon my support thereof.

A country music singer some years ago recorded a song depicting the free and easy life, which included a daily diet of free bubble-up and rainbow stew. My colleagues, the days of free bubble-up and rainbow stew are about to come to an end.

To prepare for this day of judgment, we need to be armed with some sort of defense.

We obviously lack the discipline to correct this problem upon our own motion. Nothing less than a constitutional mandate will suffice, in my opinion.

I am willing to assume the risks involved by casting my vote in favor of the balanced budget amendment.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I agree with both the gentleman from Massachusetts, Chairman MOAKLEY, and the gentleman from California, Chairman PANETTA. This is a lot of rhetoric.

It would be a real amendment if it said Members are personally liable for any moneys that were spent over and above our receipts. It does not.

Now Members could go home again, like they did with Gramm-Kemp, Gramm-Latta, Gramm-Rudman, Gramm-Bankrupt, and all those Gramm deficit programs and say, "I voted to balance the budget."

Let us get off it. The American worker is telling us quite clearly today, "Take your balanced budget amendment and shove it up your deficit."

They are saying, "Do your job. You have enough laws on the book. Stop the illegal trade, incentivize the Tax Code, reform the policies that are sending our jobs to Mexico and Singapore, give America a chance."

Our Government is structurally bankrupt. No one in Washington, nor America's Government, is listening except a little guy by the name of Perot. And while we are all laughing, he is going to clean everybody's clock. Because, my colleagues, no law can accomplish what a bunch of lawmakers do not have the courage and will to enforce. And this does nothing to balance the budget of our country.

My colleagues may not agree with me, but I am going to say it again: Stop paying for the defense of Japan and Germany, stop paying all this foreign aid, stop these policies that are sending our jobs to Mexico and Singapore, incentivize our Tax Code to recycle American dollars and invest in America.

We will balance the budget, not just with restraints that say "Cut spending or increase taxes." My colleagues, this amendment says, "Increase taxes." We will do more to balance the budget by creating jobs than we will do with these political speeches that will be made subsequent to this debate today.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I am interested in this rule. For one thing, it brings forward some of the most important measures that we could possibly deal with and says they are unamenable. For each individual amendment, it is a completely closed rule.

None of these constitutional amendments, none of these extraordinarily important proposals are subject to amendment at all.

I think that is in error. It is, of course, also an inconsistency that is of deficit proportions.

For Members on the Republican side to be supporting this rule which says that none of these constitutional amendments can themselves be subject to any amendment really does underline how idle have been some of their arguments previously about closed rules. None of these amendments is subject to amendment.

There are very controversial provisions. For example, I am told in the newest version that has been brought forward, and the chairman of the Committee on the Budget tells me we just got to see this late yesterday or early today, under the proposal of the gentleman from Texas and others, if we want to raise spending for national security, it takes a majority. If we want to raise spending for anything else, it takes three-fifths.

□ 1200

In other words, if the Members wanted to send some more troops to Western Europe, they would only need a majority, the same as they do now. If they wanted to do unemployment compensation, it will take three-fifths. It will constitutionalize the bias in American policy in favor of overseas spending.

Now, if it was national security narrowly defined, it would not be debatable, but national security has meant troops in Europe. Aid to Russia is justified, not as an act of pure charity, and I think there is a case to be made for it, but under the constitutional amendment, if adopted, if we want to unbalance the budget by sending a couple of billion dollars of food aid to Belarus, the Ukraine, and Kazakhstan, we could do it by a majority. But if we wanted to deal with the problems of communities in America faced with a crushing burden under the Clean Water Act and needing help in building sewers, if we wanted to deal with unemployment compensation, if we wanted to do something about middle-income children trying to go to college without breaking themselves, it would take three-fifths. No domestic program would qualify for that majority. Only programs in which we had substantial spending overseas, which are justified as national security, would be there.

Members have a right to say we want to give a constitutional edge to the overseas spending that I believe has been the most serious cause of our problems, but why do they bring forward a rule that says we cannot even deal with that? Why should not that be subject to amendment?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I have a lot of respect for the gentleman. The Committee on Rules and the majority leadership could have brought out a rule at any time and done exactly what the gentleman is asking for. They refused to do it, and the gentleman from Texas [Mr. STENHOLM] had no choice but to pursue the course he did.

Mr. FRANK of Massachusetts. Mr. Speaker, I would ask the gentleman for 1 additional minute.

Mr. MOAKLEY. I yield 1 additional minute to the gentleman from Massachusetts.

Mr. SOLOMON. If the gentleman would yield, I would ask him, is that a fact?

Mr. FRANK of Massachusetts. No, Mr. Speaker, I agree with the gentleman. That is true. They could have. What the gentleman from New York has said is, he will act, when he has a chance, the same way as the Committee on Rules, and I did not say that was a bad thing in and of itself. All I said was, it undercuts the indignation with which the gentleman occasionally clothes himself in these debates. What he has said I subscribe to.

Mr. SOLOMON. I thank the gentleman.

Mr. FRANK of Massachusetts. All the gentleman has done with this rule is what the Committee on Rules would do with that rule. But I would ask the gentleman to remember that it cannot be good for 1 day only. This is not a going out of business sale, this is a statement of principle. If these closed rules the gentleman says are okay now, because that is what the Committee on Rules would do, spare us the indignation, the lamentation, and the weeping and rending of garments when the Committee on Rules does exactly what the gentleman is now justifying.

We are left with the fact that in the amendment to the gentleman from Texas [Mr. STENHOLM], three-fifths to increase domestic spending, a majority to increase overseas spending, under the guise of national security; not, I think, an appropriate thing to put in the American Constitution.

If the gentleman would continue to yield, I would say to the gentleman this rule is four times fairer than yesterday's unemployment rule, which allowed no amendments. This allows four.

Mr. STENHOLM. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS of Texas. Mr. Speaker, it is a fact. This year the Federal Government will spend more in interest on the national debt than we will spend on education, the environment, law enforcement, aid to the cities, and transportation. This is not fiscal policy, this is fiscal insanity.

The enormous Federal deficit is devastating our children's future and mortgaging our economy. The deficit is economically and morally wrong, and it is time to do something about it. It is time to pass a balanced budget amendment to the Constitution. The amendment is not a new idea, but it is an idea whose time has come. The balanced budget amendment is a modern-day bill of rights that will protect our children from being drowned in a sea of debt, a debt which they did not create but one which surely they will be forced to pay. We charge today, they pay tomorrow. That is wrong. In the real world, using someone else's credit card is called theft. In government it is called deficit spending. We cannot allow that double standard to continue.

Some would say that the budget amendment would trivialize the Constitution. I would suggest that a $4 trillion deficit can only be considered trivial by those willing to pass the buck to the next generation.

Some would say that the constitutional amendment might create a constitutional crisis. I would suggest that the experience of 49 States convincingly proves otherwise.

Some would say that perhaps a change in process will not change policy. I would suggest that is naive. Just look at the dramatic effects we have had by changing the base closing commission. If process is unimportant in this House, why is a seat on the Committee on Rules such a coveted assignment?

Some would say, "All we need is a little more political will." I would suggest that type of wishful thinking has failed for 23 years. The truth is that this process drives good people to make bad decisions.

Finally, in an effort to protect the status quo, some would even go as far as to try to terrify senior citizens into thinking that their Social Security would be taken away. I would suggest that is nothing more than a cruel hoax. In fact, the greatest single threat to the Social Security system is the huge Federal deficit which devours Social Security dollars, leaving nothing but IOU's in its wake for the elderly.

Our choice is clear. It is a choice of the status quo or a choice for change. It is a choice for a legacy of debt or a legacy of fiscal responsibility.

I urge Members to vote for this rule and for the Stenholm amendment, if not for ourselves, then for our children; if not for this generation, then for the next generation. The time for a balanced budget amendment has come.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the previous speaker made great sense up until the point where he talked about the coveted seat on the Committee on Rules. On the Republican side, we are drafted, kicking and screaming, and dragged up there and forced to serve.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, if the gentleman from New York wants to give up his seat on the Committee on Rules, I will be glad to take it.

Mr. Speaker, this is the most important debate we are probably going to face in our lifetime. Those who are paying attention today I hope will realize that this is a very significant time in Congress.

I would like to respond to two things that were said by my colleagues on this side of the aisle who oppose the Stenholm amendment and this rule. The gentleman from Maryland [Mr. HOYER] made some partisan comments, and I think this debate should rise above partisan politics. It is extremely important for the Nation and for future generations of this country. He said that the Presidents of the United States, the last two, have not submitted balanced budgets, and the responsibility for these terrible deficits lies at their doorsteps.

I do not want to make this partisan, but I do want to set the record straight. The fact of the matter is, when Ronald Reagan took office we were bringing in $500 billion a year in tax revenues. The top tax rate was cut from 70 percent to 28 percent, and because of that and other steps that were taken we are now bringing in over $1 trillion a year in tax revenues, in fact, close to $1.3 trillion. So the problem is not that we do not have enough revenue to spend, the problem is, we are spending too much. Spending is totally out of control, and that requires both parties, the Republicans and the Democrats, to work together to solve that problem.

The gentleman from California [Mr. PANETTA] indicated that this was a terrible step we were making without taking our time to think it out. We have been thinking about this for years and years and years. The gentleman from Texas [Mr. STENHOLM] has been working on this for I don't know how long, since I came to Congress. Today his dreams and our dreams are coming to fruition.

The fact of the matter is, this is not going to be done in a haphazard manner. It takes two-thirds of the House, two-thirds of the Senate, to pass it, and then it has to be ratified by three-fourths of the States. This is going to be scrutinized very thoroughly before it becomes a part of our Constitution.

Let us get at the real problem facing us. Spending is out of control. This chart that we have here shows just how bad it is. The last time we had a balanced budget was in 1969. If the Members will look at the chart, and I hope everybody in this Chamber and everybody in America who is paying attention will look at it, you can see those big red lines going down further and further and further. We now have a $399 billion, almost a $400 billion deficit this year alone.

Two years ago we had a $220 billion deficit and we were told if we raised taxes with a budget summit agreement by $181 billion, we could get control of the deficit. So what happened? This Congress and the administration worked together and we raised taxes on the backs of the American people by

$181 billion. What do we have today? A $400 billion deficit. The national debt has gone from $1 trillion 10 years ago, and it took us 200 years to get there, to $4 trillion 10 years later.

Can you imagine that snowball is getting so big so fast? It is hard to believe. We are like a railroad train going downhill at 400 miles an hour, and what is at the end of the tracks? A 10-foot solid concrete wall. Who is going to suffer? The young people of this country, the future generations.

It has been said on this floor already that one of the largest expenditures in the budget is the interest on the national debt. It is $316 billion a year.

□ 1210

That is $7,500 for every family of four in this Nation. Every family of four, the interest alone is costing you $7,000 this year alone.

And what are we doing to the future generations? What kind of debt are we acquiring for them? In 1965 each American's share of the national debt was $1,666. Today, every man, woman, and child in this country is responsible for almost $20,000, $20,000 they owe to the Government just to cover the national debt.

The problem we have, my friends, is that nothing has worked. We have been working on this for years, and every single avenue we have approached to solve the deficit problem has not worked. We passed Gramm-Rudman-Hollings. It did not work. They said it had teeth in it, but it worked but for a very short time, and the deficit continued to rise unabated.

We proposed what was called the 4-percent solution a couple of years ago, I and some of my colleagues, and what it would do was limit the growth in spending to no more than an increase of 4 percent per year for the next 6 years. If we had passed that, economists tell us with a natural growth, a normal growth in the economy we would have had a balanced budget in 5 to 6 years. We could not even get that bill out of committee. It never saw the light of day.

We have tried everything in the book. We have fought every pork barrel project that comes to this floor. Last year amendments I supported cut $711 million out of Federal spending. It was not even a drop in the bucket.

So if we are going to solve this terrible economic crisis that we are facing, if we are to solve the problem that is facing the future generations of this country, we have to pass the balanced budget amendment. It is the only game in town.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. GEREN].

Mr. GEREN of Texas. Mr. Speaker, I thank the gentleman from Texas for yielding time to me.

Mr. Speaker, I rise in support of the balanced budget amendment and the rule that gives Members of Congress an opportunity to go on record and make a clear statement of their position on Federal deficit spending, a clear statement of whether they favor the policies and practices that have brought us a $4 trillion debt and mortgaged the future of countless generations of Americans or whether they want change, want to force fiscal discipline on the Federal Government, and want to protect children from greedy ancestors.

A balanced budget requirement is a very simple concept. Some try to make it complicated, but it really is not. A balanced budget requirement says simply that if you want something, you have to pay for it. If you are not willing to pay for it, you do not need it. You cannot charge it to others. You cannot charge it to your children, and you cannot charge it to their children.

It is against the law to take someone else's credit card and charge purchases without his permission, but that is what we have been doing for the last 30 years. The Federal Government has had the credit card that belongs to our children, and over the last 30 years it has stolen them blind.

Mr. Speaker, this is not only bad economics, this is just plain wrong.

Mr. Speaker, the halls are filled with legions of lobbyists today fighting hard to kill the balanced budget amendment. Why? Well, the answer also is very simple. They want us to spend more money, money that does not belong to them, money that belongs to their children and to their children's children.

Mr. Speaker, these children do not have high-paid lobbyists, but they deserve representation in the halls of Congress, and they need protection. I ask my colleagues to vote against these special interests who are filling our halls today. Vote for our children. Vote "yes" on the rule and vote for the balanced budget amendment. It is the right thing to do.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I rise in opposition to the rule on House Joint Resolution 290. I signed the discharge petition to bring a balanced budget amendment to a vote on the floor of the House of Representatives because that was the only option available to move it forward. However, the rule under which we debate this bill does not allow for amendments to perfect the resolution. Amending the Constitution of the United States is very serious and we should be certain that the resolution we pass is absolutely essential and appropriate. I have just one major disagreement with the Stenholm amendment—the enforcement mechanism.

Currently, only a simple majority of both Houses of Congress is required to authorize and appropriate spending and to pay for it by borrowing rather than increasing taxes. This is what is called business as usual and results in ever increasing deficits and a national debt approaching $4 trillion. The theory of the Stenholm amendment is that by requiring a three-fifths supermajority to approve excess spending or increase borrowing, it would be more difficult to deficit spend and be easier to balance the budget.

I am not persuaded that the most efficient enforcement mechanism is to make legislating the very difficult decisions more difficult by requiring a supermajority. In fact, it is possible that the unintended result may be to further divide government into factions and giving special interests even greater power over the legislative process. Further, there is no guarantee that requiring a three-fifths supermajority to bust the budget will actually result in balancing the budget.

What happens under the amendment if our budget projections prove erroneous and we end a fiscal year with outlays exceeding receipts? Nothing. We are in violation of the constitutional amendment and presumably would have to increase the debt ceiling or the United States would be in default. Suppose we cannot achieve a three-fifths majority vote to increase the debt? We could raise revenues, but suppose we cannot achieve a majority vote to increase taxes? A constitutional crisis would arise which would require judicial intervention to resolve. The only way to avert the crisis is to build a coalition or supermajority necessary to take legislative action. Great power would lie with each factional special interest necessary to reach the crucial three-fifths majority needed to act.

The three-fifths supermajority created in the bill as an enforcement mechanism to force a balanced budget may in reality make it more difficult to agree on how to balance the budget.

I believe a more effective enforcement mechanism is already available within the Constitution and budget statutes—a majority vote of both Houses of Congress subject to veto of the President. The balanced budget amendment which I have filed, House Joint Resolution 504, relies upon a constitutional majority of both Houses to waive the balanced budget but requires approval of the President by allowing for a veto. Further, a real look-back provision requires Congress to balance actual receipts and outlays or face an automatic sequestration of outlays to eliminate a budget deficit.

I will vote in favor of the Stenholm amendment today because in spite of the risks created by a three-fifths majority rule, continuing to spend hundreds of billions of dollars more than we have is the greater risk to our future. We must act and act now. I urge you to vote "no" on the rule but to

support the balanced budget amendment.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Texas [Mr. STENHOLM] will have the privilege of closing debate. He has 2 minutes remaining. The gentleman from Massachusetts [Mr. MOAKLEY] has 2 minutes remaining and the gentleman from New York [Mr. SOLOMON] has 1½ minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of our time.

Mr. Speaker, we've heard almost every excuse in the book about why we should not enact a balanced budget amendment. And the opponents blame Presidents Reagan and Bush instead of themselves, for this hemorrhaging red ink.

Well, Members, when Mr. STENHOLM and I first came to this Congress, the existing tax structure was bringing in about $500 billion to the Federal coffers and Congress was spending about $550 billion.

Then came 8 consecutive years of solid economic growth, and 21 million new taxpaying jobs and hundreds of thousands of new big and small businesses that more than doubled revenues without raising taxes.

But while revenues doubled—from $500 billion to $1 trillion—spending by this irresponsible Congress nearly tripled to $1.5 trillion.

Mr. Speaker, that's how we got into this unconscionable sea of red ink. Congress did it. And Congress will continue to do it unless we enact this constitutional amendment; to force this Congress to do what the American people have to do—live within our means. For God's sake, please vote "yes."

Mr. DREIER of California. Mr. Speaker, today the Federal Government will spend $1 billion we don't have. Every day this year the Government of the United States will borrow $1 billion to spend beyond its means, shifting onto future generations the burden of paying for our excess. By year end, we will have added another $400 billion to our $3 trillion national debt.

Mr. Speaker, these numbers are incredible. And yet, they are used so casually around here that I'm afraid they have lost their impact. The fact that we are passing on trillions of dollars of debt, with annual interest payments approaching $200 billion, should compel us to immediately put Government spending in line with revenue. Tragically, it appears that won't happen without the discipline of a constitutional amendment requiring a balanced budget.

Congress has demonstrated time and again its bias in favor of short-time political gains, at the expense of long-term responsibility. Statutory balanced budget requirements have been adopted, and routinely violated. We've had Gramm-Rudman in 1985, Gramm-Rudman II in 1987, and more recently, the 1990 Budget Enforcement Act, which promises a balanced budget by 1995. Regrettably, it seems that we will never achieve a balanced budget without constitutionally required fiscal restraint.

I understand the concerns raised by critics among the media, academia, interest groups, and many of my colleagues in this Chamber. We know what is in this resolution. But I, too, am concerned about what is not in the resolution.

For example, the resolution does not have a tax limitation provision, although the voting rules on a tax increase are changed. The voting base is changed from a quorum majority to the whole membership. A rollcall vote is required on each bill that would increase total receipts. I support Congressman BARTON'S amendment which states that total receipts may not increase at a rate higher than the rate of increase in national income without the approval of three-fifths of the total membership of each House on a rollcall vote.

The resolution does not include a definition of taxes. User fees could be the revenue gimmick of the next decade. Also, it limits spending, but does not address off-budget items and unfunded liabilities. For example, guaranteed loans are not expenditures, but grants and direct loans are.

Just as troubling, the resolution does not guarantee a balanced budget. It only requires that estimated outlays equal estimated receipts. In recent years, the actual deficit has exceeded the estimated deficit sometimes by as much as $100 billion. There is no enforcement mechanism to address this dilemma. Who are we going to put in jail if Congress does not comply?

In spite of these problems, Mr. Speaker, I have decided to support the resolution because it will have enormous economic benefits, and it is the height of cynicism to oppose it based on the conniving and irresponsible behavior of future Congresses.

The economic benefits of a balanced budget amendment include increased domestic savings, lower interest rates, increased investment, less reliance on foreign sources of capital, and improvement in our balance of trade, not to mention its impact on the economic future of our children. Every year we run a $200 billion budget deficit means another $7,000 or more in extra taxes that the average child will have to pay over a lifetime just to meet the interest payments on that 1 year's borrowing.

Mr. Speaker, Government resources needed to address current problems, and invest in our future, are being drained to make interest payments on the national debt. And future generations of Americans, who are unrepresented here today, stand to inherit not only our massive debt, but a weakened U.S. economy, and a lower standard of living.

As Thomas Jefferson said:

> The question of whether one generation has the right to bind another by the deficit it imposes is a question of such consequences as to place it among the fundamental principles of government.

I agree, and I believe the balanced budget amendment represents a statement of principle worthy of inclusion in our Constitution.

Recently, I met with former Budget Director Roy Ash and I would like to enter into the RECORD some important concerns on this issue.

STATEMENT OF ROY ASH, JUNE 2, 1992

The public's infatuation with Ross Perot and Congress' overeager embrace of a constitutional amendment to balance the federal budget spring from the same troubled waters—deep seated frustration with the workings of government. In desperation, each of these responses is the call for an heroic "Hail Mary play" to break the impasse.

Both proponents and supporters of such acts of desperation undoubtedly hold sincere visions of the results they intend to achieve. But these visions are understandably idealized. Not considered are the almost certain, and serious, unintended consequences that will be unleashed, certainly by amending the constitution to balance the budget.

Let's consider just two of these unintended consequences concerning the budget. Senator Simon's bill, S.J. Res. 18, would require that annual federal "outlays" (cash paid out by the government) not exceed "receipts" (cash received) for that year. That would seem a clearcut way to balance the budget. But what else would it do, even though unintended?

The government pays out its cash to meet obligations incurred by earlier actions, sometimes years earlier. Such liability-incurring actions would be the issuance of bonds requiring life-of-bond interest payments, the purchase of airplanes to be paid for when delivered, commitments to make Social Security payments, guarantees of international obligations, etc., etc. But what will happen under the proposed amendment when the bills for these commitments become due and previous outlays during the year have already "used up" all the year's receipts? Is government bond interest not to be paid? Will aircraft builders be told to keep their planes, there's no money? Will Social Security recipients be told, "we're sorry", maybe next year"?

By this well intended constitutional amendment, we will have made all financial obligations undertaken by the U.S. Government merely contingent ones, to be paid if and when cash is available! And since cash is paid out months and years after the legal liabilities are incurred, who can tell at the time of obligation whether or not the budget will balance in future years and cash will, in fact, be available? The creditors will be required to take that risk. Thus, with adoption of this amendment, we will have dealt a serious blow to one of this country's basic secrets—the inestimable value of its sovereign full faith and credit. Concerned as we are by Congressional members writing a few thousands of dollars of checks with no money in their personal accounts, will they now write billions of dollars of uncovered checks on the nation's accounts?

Then, there is the House version of the proposed amendment, H.J. Res. 290. It would require that at the beginning of each year the President and the Congress agree on a level of expected receipts for that year and limit outlays for the year to those expected receipt levels. Suppose the President and Congress don't agree; it wouldn't be the first time. One may want to raise taxes and spend more; the other may want to reduce spending or even reduce taxes. Nothing, even the constitution, can force them to agree. Has the Congress or has the President violated the constitution? Who goes to jail, so to speak, for the offense of not agreeing? This is just one of many bases for court intervention if the amendment is adopted.

The very imbedding of any principle in the Constitution not only opens the way for, but invites, open-minded litigation in the federal

courts. Will the federal courts, including the Supreme Court, become the country's budgeteers? In addition to the Administration's Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) will we now have an SOB (Supreme Court Office of the Budget) making fiscal policy for the nation? If so, the federal district courts and Supreme Court would be determining tax policy, i.e., who pay taxes, what kind and how much, and spending policy, i.e., which federal programs would be canceled and which kept and at what levels. (A special court staff of not over 500 people would probably be sufficient to do the job.)

These two possible unintended consequences, alone, are enough to reject outright the idea of a constitutional amendment. And there are other equally troubling possibilities, ranging from unintended effects on our defense capability, to the likely prospect of regulatory spending, i.e., requiring business to spend directly for programs (such as for medical costs) that otherwise would be paid by government, to the greater relative ease of raising taxes rather than reducing expenditures as a way of achieving budget balance. Furthermore, as those of us who have been in the business know very well, any amendment in the arcane field of budgeting can be circumvented by so many technicalities that the Constitution of the United States itself will have been trivialized.

So let's save the Constitution; let's save the best credit rating in the world; let's save our courts from an impossible task; and in the process save the American people from the unintended consequences of a well meant idea.

□ 1220

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes, of the remainder of my time, to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I have to comment on the remarks of the gentleman from New York.

We too frequently flail only the Congress for our Governments shortcomings in restoring fiscal responsibility. This is a shared responsibility.

If you look at the States where some fiscal sanity reigns today, what do you have? Governors who lead, chief executives who provide leadership in this area, and legislators who work with those chief executives. We need that here. We have not had that here in the 10 years that I have been a Member of this body.

I have been talking with a number of our colleagues in the last day regarding some of their concerns about the Stenholm amendment. I want to address a couple of those concerns at this time.

One is that we should not address economic issues in the Constitution. Well, let me just say that a long time ago, 200 years ago, Thomas Jefferson said that if he could make one change to the Constitution it would be to inhibit or prohibit borrowing by the Government.

Further, we have in the Constitution already provisions for the treatment of interstate commerce, for taxation, for appropriations, for property rights, and for coinage, to mention a few. Those are, I believe, economic matters. They are appropriate in the Constitution as is our amendment.

The second concern that has been raised is with regard to Social Security. I believe that we should not open a loophole in this amendment big enough through which we can drive exemptions for literally every single entitlement program. That is not what we want to do. For those of us who want to protect Social Security, we may do that. We may continue existing law by including in any statutory enforcement package that we adopt a preemption from sequestration for Social Security. If you think that Social Security should be exempted from sequestration, simply, vote with us on the enforcement statute to do that.

Let me close by addressing enforcement statutes. Will we need one if we pass this amendment? You bet we will. The vote tomorrow on this amendment is not the last vote. It is one of the first critical votes in terms of racheting down the deficits in the years ahead.

The gentleman from California [Mr. PANETTA] and others will offer to us an enforcement package which is being crafted already. It is imperative, it is imperative that those of us who support this balanced budget amendment support his efforts with the same sincerity and enthusiasm with which we are supporting the balanced budget amendment.

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that I may reclaim the 2 minutes I yielded back.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Massachusetts?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, with all due respect, and I have great respect for my friend, we were yielded half of the time, and we had that right to close with our half of the time. It would be unfair. The gentleman should have used time and allowed us to close.

Mr. Speaker, I would have to object to the gentleman's request.

The SPEAKER pro tempore. Objection is heard.

Mr. STENHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 326, nays 91, not voting 17, as follows:

[Roll No. 181]

YEAS—326

Alexander	Fish	Machtley
Allard	Flake	Manton
Anderson	Ford (MI)	Markey
Andrews (NJ)	Ford (TN)	Martin
Andrews (TX)	Franks (CT)	Martinez
Applegate	Frost	Mavroules
Archer	Gallegly	Mazzoli
Armey	Gallo	McCandless
Aspin	Gaydos	McCloskey
Atkins	Gekas	McCollum
Bacchus	Gephardt	McCrery
Baker	Geren	McCurdy
Ballenger	Gibbons	McDermott
Barnard	Gilchrest	McEwen
Barrett	Gillmor	McGrath
Barton	Gilman	McHugh
Bateman	Gingrich	McMillan (NC)
Bennett	Glickman	McMillen (MD)
Bentley	Goodling	McNulty
Bereuter	Gordon	Meyers
Bevill	Goss	Michel
Bilbray	Gradison	Miller (OH)
Bilirakis	Grandy	Miller (WA)
Bliley	Green	Molinari
Boehlert	Guarini	Mollohan
Boehner	Gunderson	Montgomery
Boucher	Hall (OH)	Moody
Boxer	Hall (TX)	Moorhead
Brewster	Hamilton	Moran
Broomfield	Hammerschmidt	Morella
Browder	Hancock	Morrison
Brown	Hansen	Mrazek
Bruce	Harris	Murphy
Bryant	Hastert	Murtha
Bunning	Hatcher	Myers
Burton	Hayes (LA)	Natcher
Bustamante	Hefley	Neal (NC)
Callahan	Henry	Nowak
Camp	Herger	Nussle
Campbell (CA)	Hobson	Oakar
Carper	Hochbrueckner	Oberstar
Carr	Holloway	Olver
Chandler	Hopkins	Ortiz
Chapman	Horn	Owens (UT)
Clement	Horton	Oxley
Clinger	Houghton	Packard
Coble	Hoyer	Pallone
Coleman (MO)	Hubbard	Parker
Coleman (TX)	Huckaby	Pastor
Collins (IL)	Hunter	Patterson
Combest	Hyde	Paxon
Condit	Jacobs	Payne (VA)
Cooper	James	Pease
Costello	Jefferson	Penny
Coughlin	Jenkins	Peterson (MN)
Cox (CA)	Johnson (CT)	Petri
Cramer	Johnson (SD)	Pickle
Crane	Johnson (TX)	Porter
Cunningham	Johnston	Poshard
Dannemeyer	Jones (GA)	Price
Darden	Jones (NC)	Pursell
de la Garza	Jontz	Quillen
DeFazio	Kaptur	Rahall
DeLauro	Kasich	Ramstad
DeLay	Kennedy	Ravenel
Derrick	Kleczka	Ray
Dickinson	Klug	Reed
Dixon	Kolbe	Regula
Donnelly	Kolter	Rhodes
Dooley	Kyl	Ridge
Doolittle	LaFalce	Riggs
Dorgan (ND)	Lagomarsino	Rinaldo
Dornan (CA)	Lancaster	Ritter
Dreier	Lantos	Roberts
Duncan	LaRocco	Roe
Early	Laughlin	Roemer
Eckart	Leach	Rogers
Edwards (OK)	Lehman (CA)	Rohrabacher
Edwards (TX)	Lent	Ros-Lehtinen
Emerson	Levin (MI)	Rose
Engel	Lewis (CA)	Rostenkowski
English	Lewis (FL)	Roth
Erdreich	Lightfoot	Roukema
Espy	Lipinski	Rowland
Ewing	Lloyd	Russo
Fawell	Long	Sangmeister
Feighan	Lowery (CA)	Santorum
Fields	Luken	Sarpalius

Sawyer	Solarz	Valentine
Saxton	Solomon	Vander Jagt
Schaefer	Spence	Volkmer
Schiff	Spratt	Vucanovich
Schulze	Staggers	Walker
Sensenbrenner	Stallings	Walsh
Sharp	Stearns	Weldon
Shaw	Stenholm	Whitten
Shays	Stump	Williams
Shuster	Sundquist	Wilson
Sikorski	Tallon	Wise
Sisisky	Tanner	Wolf
Skaggs	Tauzin	Wolpe
Skeen	Taylor (MS)	Wyden
Skelton	Taylor (NC)	Wylie
Slattery	Thomas (CA)	Yatron
Smith (FL)	Thomas (GA)	Young (AK)
Smith (NJ)	Thomas (WY)	Young (FL)
Smith (OR)	Thornton	Zeliff
Smith (TX)	Torricelli	Zimmer
Snowe	Upton	

NAYS—91

Abercrombie	Hertel	Roybal
Ackerman	Hughes	Sabo
Andrews (ME)	Kanjorski	Sanders
Annunzio	Kennelly	Savage
AuCoin	Kildee	Scheuer
Beilenson	Kopetski	Schroeder
Berman	Kostmayer	Schumer
Blackwell	Lehman (FL)	Serrano
Borski	Lewis (GA)	Slaughter
Brooks	Lowey (NY)	Smith (IA)
Cardin	Marlenee	Stark
Clay	Matsui	Stokes
Collins (MI)	Mfume	Studds
Conyers	Miller (CA)	Swett
Cox (IL)	Mineta	Swift
Coyne	Mink	Synar
Dellums	Moakley	Torres
Dicks	Nagle	Towns
Dingell	Neal (MA)	Traficant
Downey	Obey	Traxler
Durbin	Olin	Unsoeld
Dwyer	Orton	Vento
Edwards (CA)	Owens (NY)	Visclosky
Evans	Panetta	Washington
Fascell	Payne (NJ)	Waters
Fazio	Pelosi	Waxman
Foglietta	Perkins	Weber
Frank (MA)	Peterson (FL)	Weiss
Gejdenson	Pickett	Yates
Gonzalez	Rangel	
Hayes (IL)	Richardson	

NOT VOTING—17

Allen	Dymally	Levine (CA)
Anthony	Hefner	Livingston
Bonior	Hoagland	McDade
Byron	Hutto	Nichols
Campbell (CO)	Inhofe	Wheat
Davis	Ireland	

□ 1250

Messrs. WEISS, PETERSON of Florida, EVANS, and SAVAGE, Mrs. COLLINS of Michigan, and Messrs. COYNE, KOPETSKI, SCHUMER, and ABERCROMBIE changed their vote from "yea" to "nay."

Mr. ALLARD and Mr. SLATTERY changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

H.J. Res. 442. Joint resolution to designate July 5, 1992, through July 11, 1992, as "National Awareness Week for Life-Saving Techniques"; and

H.J. Res. 445. Joint resolution designating June 1992 as "National Scleroderma Awareness Month".

The message also announced, that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2507) "An act to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes."

The message also announced, that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1306) entitled "An act to amend title V of the Public Health Service Act to revise and extend certain programs, to restructure the Alcohol, Drug Abuse and Mental Health Administration, and for other purposes."

The message also announced that the Senate has passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2703. An act to authorize the President to appoint General Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration; and

S.J. Res. 273. Joint resolution to designate the week commencing June 21, 1992, as "National Sheriffs' Week".

The message also announced, that pursuant to Public Law 102-240, the Chair, on behalf of the Republican leader, appoints Mr. Ed Hamberger of Maryland and Mr. Robert Krebs of Illinois, as a member of the National Commission on Intermodal Transportation.

PROPOSING AN AMENDMENT TO THE CONSTITUTION TO PROVIDE FOR A BALANCED BUDGET

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 450, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the joint resolution, House Joint Resolution 290.

□ 1255

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution, House Joint Resolution 290 proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation, with Mr. THORNTON in the chair.

The CHAIRMAN. Pursuant to the rule, the joint resolution is considered as having been read the first time.

Pursuant to the order of the House of Thursday, June 4, 1992, the gentleman from Texas [Mr. BROOKS], or his designee, the gentleman from Missouri [Mr. GEPHARDT], will be recognized for 3 hours; the gentleman from New York [Mr. FISH] will be recognized for 3 hours; and the gentleman from Texas [Mr. STENHOLM] will be recognized for 3 hours. The Chair will attempt to rotate recognition in a manner mutually agreeable to the managers.

The Chair recognizes the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today and tomorrow, we will have an important and I hope constructive debate about the Constitution, our fiscal problems, and our responsibilities as leaders of a country that is being buffeted by the complexities of a new world. We are living in an era of change as vast as that which greeted Truman following the end of World War II. The fight against communism, the central operating principle of government for the last 45 years, is over.

The Berlin Wall is down. The bipolar world is gone. The economy is global. New economic superpowers have arrived, and are arriving, to our east and our west. The age of presumed prosperity is behind us, and much of our economic strength is depleted.

Our capacity to respond to these changes and challenges is handcuffed by an enormous and growing enslavement to deficit spending.

So, we need to talk today and tomorrow about how we got into this mess, and how we're going to fix the problem.

In the years following World War II, the American economy was the envy of the world. It produced goods and services and food in abundant quantities. Our economy funded a humane public agenda that raised the incomes and aspirations of a growing middle-class and improved the lives of the underclass. We had problems from time to time, but we grew and we produced jobs and we created opportunity.

In contrast to the arguments of the Republicans, Government spending and indebtness was not—was not—out of control prior to President Reagan.

Virtually every year since 1948, government debt as a percentage of GNP went down; it shrank from a high of about 90 percent to a low in 1980 of about 27 percent. Throughout those years, and throughout the 1980's, Congress appropriated less than what nine successive administrations requested. But something happened in 1981 that drove Government debt as a percentage of GNP back into the stratosphere. What happened in 1981 was the enactment of Reaganomics, and it had the predicted and predictable effect of driving this country to the brink of bankruptcy.

Democrats warned in 1981, as we have warned every year since, that a day of reckoning would confront this country.

We warned that excessive tax cuts for the rich, wasteful military spending, and neglect of the middle class would someday combine to diminish our abundance and dampen our prospects.

We warned that high deficits, reduced investment in public works, huge trade imbalances, and a stagnant standard of living for middle-class people would hurt us not just individually but nationally. We lived a paper prosperity and existed on fool's gold.

Our predictions about Reaganomics, unfortunately, have been more than borne out.

Since the Republicans took over the White House, our national debt has more than tripled, despite repeated promises by candidates Reagan and Bush that they would balance the Federal budget.

Our national debt now stands at $4 trillion. Servicing this debt requires interest payments of $300 billion per year.

This is money that could be better spent on increasing our competitiveness, fighting hunger and homelessness, sending our kids to college, fighting crime, and countless other important tasks.

Because of our large deficits and weak economic performance, companies are having trouble finding the capital to finance their operations at attractive rates.

Industry after industry is seeing some of its brightest stars either looking overseas for financing or falling prey to foreign investors who are shopping around for bargains. Productivity, economic growth, and job creation are at record low levels in the post-World War II era.

We have seen America's position as the world's largest creditor erode to that of being the largest debtor.

During this period, we have amassed more than $1 trillion in merchandise trade deficits—with no real end in sight.

Our budget and trade deficits have increased our appetite for foreign capital to keep our economy afloat. In excess of 30 percent of our long-term bonds and notes are purchased by foreigners at our Treasury auctions. These are sales we make from a position of weakness, rather than from a position of strength.

We are now incapable of strengthening the economic fiber of our country—in areas like education, job training, and research—and meeting our obligations overseas.

This may suit a President without a domestic agenda, but now even a foreign policy presidency cannot command the resources required for America's role in the new world order.

During the 1980's Democrats tried to preserve the Nation's priorities as our resources diminished and Presidential leadership evaporated. Two recessions, a savings-and-loan crisis, and slow economic growth added billions in deficit spending even as we cut essential services to the American people.

Disingenuously, the supply-siders called our dark predictions: "politics."

And now, like Claude Raines in "Casablanca," some of the most ardent supporters of Reaganomics find themselves shocked, shocked that deficits could be so high.

But the truth is different: They knew the consequences all the time, and they decided to cover them up.

In June 1981, amidst the negotiations over the Reagan tax cut, Dick Darman and David Stockman paced the parking lot near the West Executive Office Building. According to Mr. Stockman's book, Mr. Darman said: "I don't know which is worse, winning now and fixing up the budget mess later, or losing now and facing a political mess immediately."

Darman answered his own question: "Let's get at it. We win it now, we fix it later."

"In the end," Stockman writes, "we chickened out." And now the chickens have come home to roost. Our country cannot function with an annual $400 billion deficit, and in these extraordinary circumstances extraordinary measures are required. Now Congress will consider a constitutional amendment requiring the President to submit, and Congress to enact, balanced Federal budgets.

If the amendment is ratified, the Constitution will return the finances of Government to a condition that existed until the 1970's; there will be a rebuttable presumption in good economic times that we should spend no more than we take in.

If a balanced budget constitutional amendment is to be adopted, it must embody the right policy, it must require Presidential leadership, it must protect Social Security, and it must preserve the principle of majority rule.

Our balanced budget amendment, by embracing these values, represents a far better, more thoughtful and effective approach than any other existing proposal.

And it establishes a basic contrast between congressional leaders, who care deeply about the fiscal condition of the country, and the thoughtless profligacy of President Bush.

I have opposed amending the Constitution in this way, even as I have worked with my colleagues to reduce the deficit.

Following the budget summit, where we actually reduced future indebtedness by nearly $500 billion, only to see the deficit rise further, I concluded that we need the moral color of constitutional authority to get this job done.

Adoption of a well-drafted amendment, and an effective enforcement tool, is a necessity, however difficult, if we hope to restore our books to balance and preserve opportunity for our children.

Our amendment alters a two-century-old formula, written by the Founding Fathers, that gave Congress exclusive control of the purse strings; this is a power and responsibility that must now be shared equally with the President.

There is no more important, yet less understood, element of my amendment than the provision which protects Social Security.

And there is no more powerful opinion expressed by the so-called fiscal realists than the idea that the budget cannot be balanced unless Social Security is brought into the mix. Those who repeat this myth remind me of the saying: "The trouble with people is not that they don't know but that they know so much that ain't so." It ain't so.

There are a number of credible scenarios for balancing the Federal budget without cutting Social Security benefits. And there are a number of persuasive and powerful arguments for ensuring that we follow this course.

Social Security represents as important a compact with the elderly as interest payments represent to the holders of Treasury debt.

This is a unique, self-financing, pension insurance program. It enjoys universal support, because every American holds the card. They pay in because they have been guaranteed benefits, and the trust and support they bring to this program should not be based on an ephemeral commitment.

Their trust flows from the fact that this program has performed as promised; we have virtually eliminated impoverishment as the inevitable result of aging because we have stood by this program and made it stronger.

Twice during my tenure here, we have raised Social Security taxes and cut Social Security benefits—not to balance the budget, but to ensure the solvency of the program.

Elderly people who depend on Social Security stood by these reforms because these changes were devoted to stabilizing the program. What they cannot abide, and what we should prevent by this amendment, is the use of the trust funds to accommodate the mistakes of the fiscal mismanagement of the 1980's.

Let me remind you who this program serves by telling you a story I will never forget. Not long ago, I participated in an event in my district during which a room filled with seniors in my district were served a nourishing lunch. These people weren't poor, and they were proud. They are members of my mother's generation—veterans of World War II and the Depression.

They told me stories of their worry and their concern about meeting prescription drug bills on a monthly Social Security benefit that must also ac-

commodate rent and energy bills. Some of them wrapped food from the lunch table with napkins so they wouldn't have to spend money for dinner.

I overheard two gentlemen in the restroom talking about pooling their pocket money so they could share a dinner for one at a local restaurant that offers a weekend special.

I think we should recognize their struggle and honor their dignity, and we reject the argument that exempting Social Security represents pandering to an interest group.

Balancing the budget under any circumstances will be difficult, but I think we have to find a way to do it without denying hope and sustenance to the senior citizens of this land.

Let me conclude with these thoughts. This country has made tough decisions before. This country is too great and too important to let it slide further. We must embark on an unprecedented change in our country's priorities. Military spending must be dramatically cut, but jobs must be found for the workers who built our weapons and new uses must be found for the factories which forged them.

The Tax Code must be revamped, made more progressive, and changed to collect more revenue.

Government spending programs must be cut and then altered to reward results. Agencies and ideas devoted to cold war aims must be honored and then retired. We need a total, national commitment to embracing the new world, and then conquering it—for all the good America can provide as a partner and as a leader for positive change.

But the truth is this: We can never seize command of this defining moment until we reconcile our finances. The balanced budget amendment can become the driver, the spark, the impetus for the changes we know we must make. That is why I have introduced an amendment, and that is why I will urge my colleagues to support it when we vote on this issue tomorrow.

□ 1310

Mr. Chairman, I reserve the balance of my time.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. Mr. Chairman, I have seldom heard such a disappointing beginning to such an important debate. We have heard very little about the pros and cons of a constitutional amendment, and we have heard very little that has a basis in fact about why it is needed.

Indeed, the distinguished majority leader, in the process of trying to blame Republicans and Presidents Reagan and Bush for problems which he knows were not at their feet, has contradicted himself at least once. At one point he appeared to say that this problem began in 1981 with Reaganomics. At another point he talked about the presumption, which existed and, indeed, it did prior to the 1970's, that budgets in good times should be balanced.

I say to my colleagues, we cannot have it both ways. We have analyzed this in the Committee on the Budget. And while there may be disagreement about what should be done, there certainly is no disagreement about the fact that the principal reason we have a budget that is spiraling into deficit and getting worse year after year is the portion of the budget, the so-called entitlements, which are not subject to annual appropriation and review.

Indeed, and I find this amazes my constituents, two-thirds of the U.S. Government's budget is not even subject to annual review by the Congress. It is on automatic pilot.

One other point which I think worth mentioning that was not mentioned by the distinguished majority leader is that throughout this entire period of the 1980's, which he so roundly condemns, it was his party who ran this place. And Indeed, it is his party which currently has a 101-vote margin in the House of Representatives.

The distinguished leader on the other side pointed out that he, to use his words, "worked with my colleagues to reduce the deficit." Frankly, with friends like this, who needs enemies.

Let us talk about what happened twice last year and then again last night, the attempt to pass out of this House a needed bill for unemployment compensation without paying for it. What in the world does that do but to increase, not reduce, the deficit. And who led the fight to tear down the firewalls this year, the firewalls which assure us that any savings in defense are used to reduce the deficit, not to increase other forms of spending? And what is the next bill after this amendment is acted on which this House is likely to consider, a supplemental appropriation bill with several billion dollars of spending which again is not paid for, which only would increase the deficit.

Much was made, and I think properly so, about Social Security. It is an issue which deserves our attention. I am personally confident that what we heard can best and most fairly be described as just scare tactics.

Social Security is on a sound actuarial basis. Its condition is measured over a 75-year period. It is properly financed. It will be protected no matter what we do with regard to a balanced budget. But trying to listen carefully to what was said by the majority leader, I did have some difficulty trying to understand who speaks for the Democratic Party on the subject of Social Security.

Within the last 24 hours, the person that I assume is the leader of the Democratic Party in this country, their nominee for the office of President of the United States, has also spoken about Social Security. And he wants to increase taxes on Social Security beneficiaries. Is that the view of Democrats in this body? Is that their view of the future of Social Security? Is that the hidden agenda of their party when they try to talk about Social Security in the context of a balanced budget amendment?

I said at the outset, Mr. Chairman, that I thought that this discussion was off to a disappointing start. I would like to bring it back to the question of the constitutional amendment itself. I want to do so by addressing six basic questions. There may be other questions on Members' minds, but I think these are six which are on all of our minds.

First of all, who wants this amendment? For the past several weeks the distinguished chairman of the House Committee on the Budget, who opposes this amendment, has issued warnings about the severe spending cuts that would be required to balance the budget in 5 years and the kind of stern budgetary enforcement that would be necessary. That is proper. It is within the chairman's prerogatives. It helps to further the debate. I welcome it.

But I do want to urge upon my colleagues that they recognize that the chairman in this regard is not speaking for the full House Committee on the Budget. I hope that was clear from the "Dear Colleague" letter which was recently sent to all Members of the House, signed by a bipartisan majority of the House Committee on the Budget, 20 members of our 37-member committee who indicated that they will support this constitutional amendment. And I anticipate when the final vote is taken, the number may exceed the 20.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding to me.

Since he places great emphasis on a majority of the committee taking a position, I guess I would ask, when a majority took a position on a budget resolution, why did the gentleman then not support that budget resolution?

Mr. GRADISON. Mr. Chairman, in my view that was a meaningless budget resolution, and it was written in a way which was intended to cover up the fact that the chairman did not have a majority on the resolution. It did not offer us one budget. It offered us two. One with the firewalls, one without.

It was a very clever ploy. I understand that, and I respect the way in which the game was played, but in my view a straight up or down vote on that budget resolution would have shown in that case as well as in the case of this

constitutional amendment, that the chairman, in all fairness, was not speaking for the committee as a whole.

Frankly, the views of the members of the Committee on the Budget are important here because if there is any group in this body that is willing to make the tough choices involved in dealing with the deficit, it is the members of that committee, including our chairman.

That is why we serve on that committee. But in my view, before we have a fighting chance of dealing with this, we have to pass this amendment first.

□ 1320

My second question is, Is balancing the budget a good idea? We are not talking about an occasional deficit. The kind of situation that we have had occasionally might be tolerable. After all, during World War II we ran huge deficits and they were obviously justified, considering the stakes. This was also true during the Great Depression of the 1930's.

The problem today, however, is that our deficits are large and chronic, compared with the level of national savings. One reason for this, as recently noted by columnist Robert Samuelson, is that in the early 1960's peacetime deficit spending became philosophically acceptable. Before that time, administrations and Congresses avoided large deficits as a matter of course. Deficits were taboo. No statute or constitutional amendment required this prudent behavior. It was simply the tradition. But by the mid-1970's deficit spending had become the rule rather than the exception.

I repeat what I said earlier, this did not begin when Ronald Reagan was sworn in as President of the United States.

There are plenty of sound economic reasons for preferring balanced budgets, and they have been described many times and in many places, and I need not elaborate on them.

Deficits drain the pool of national savings which would otherwise be available for the investments that will provide for future economic growth and higher living standards. This means that standards of living will fail to rise as quickly, and may even decline, that interest rates will be higher, and that debt service will consume more and more of the budget, as it is doing today, thereby restricting the amount of resources that can be devoted to other needs. Finally, the Federal Government has committed itself to future obligations, and Social Security is the main one, that we will be unable to meet or have great difficulty in meeting if we continue on this current deficit path.

I want to stress this point, because some of the lobbies opposing this amendment have indicated that the amendment will force a reduction of Social Security and Medicare benefits. The reality is just the opposite. If these deficits continue, Social Security and Medicare will be put in very serious jeopardy in the long run.

My third question is, Can Congress balance the budget without an amendment? Sure it can. The gentleman from California, Chairman PANETTA, has drawn up three potential paths for getting us there. One may disagree with some of those paths, as I do, but they do lead toward balance. There are other ways to balance the budget, and I would expect, whether we approve this amendment or not, that we will begin increasingly, as we should, to focus on how to get us where we all want to be in 4 or 5 years.

My fourth question is, Will Congress really do it? Our recent experience, to say the least, is not encouraging. We had Gramm-Rudman-Hollings I and Gramm-Rudman-Hollings II a few years ago, and then gave them up. We had the 1990 Budget Enforcement Act, which was supposed to reduce the deficit by $500 billion over 5 years. I have not seen that happen. The deficit now is larger than it was when we took that action later in 1990.

In candor, most observers of the scene expect that that so-called 5-year agreement will collapse at the end of this year.

The conference report on the budget resolution recently approved was not very comforting, either. After Congress criticized the President for the deficit, as the majority leader just did, the congressional budget resolution approved by this House fails to stop the flow of red ink. In fact, in some cases—and defense comes immediately to mind—the resolution did not even indicate what spending path we should follow after the first year.

The fifth of my six questions is, Will the constitutional amendment get us a balanced budget? I think the only fair answer is, by itself, of course not. The amendment is simply a statement of principle, that principle being that the Federal budget should be in balance.

The final question: If that is the case, why should we have an amendment? Because that principle is important. Again, it might not matter if our attitude were the same as it was in the 1950's, when large deficits were avoided as a matter of course, but running chronic deficits destroys our political system, not just our economic system. This becomes clearer when we review how these chronic deficits came about.

As Herbert Stein has pointed out, the first warning came during the winddown of the Vietnam war. This was the time when the term "peace dividend" first came into use. Stein served on a special task force of President Nixon's Domestic Policy Council that was assigned to figure how to allocate the peace dividend.

As it turned out, the money was already committed to a variety of domestic programs that were created or expanded during the Johnson administration. Most of these were entitlements. The Domestic Policy Council recognized this as early as 1969, leading DANIEL PATRICK MOYNIHAN, the Council's director, to say that the peace dividend was "as evanescent as the morning clouds over San Clemente."

Prof. Allen Schick has quantified this phenomenon. He notes that in 1964—the last year before significant Vietnam escalation—55 percent of the Government's outlays went for purchases of goods and services, 25 percent to transfer payments, and less than 10 percent to grants to States and localities. By 1975, transfer payments had grown to 40 percent of outlays, and grants to States and localities had grown to 15 percent. By fiscal year 1997, payments to individuals will be 60 percent of the budget.

This has occurred, and this point is often lost sight of, while defense spending has declined, as a fraction of both the budget and the economy, and defense has consistently declined—with only two brief exceptions—since the end of the Korean war; not the Vietnam war, the Korean war.

To put it simply, the growth of Government spending—and, hence, the growth of Federal deficits—is principally the result of domestic spending, mostly entitlement transfer payments.

Consequently, Americans now are routinely getting substantially more Government service—through domestic programs—than they are paying for. This distorts any reasonable choice between how much government Americans want and how much they are willing to pay for. It's like asking someone if they want to pay for the free lunch they've become accustomed to.

It also feeds the impression that the Government is separate from the present generation of Americans, because today's Americans are receiving significant Government services which will be paid for by future generations.

This amounts to a distortion of the political system as embodied in the Constitution. That's why asserting the principle of fiscal balance through a constitutional amendment is appropriate—because ultimately it is a political issue, as well as an economic one. It has to do with the balance of relations among generations of Americans, as well as between the Government and the governed. That is a balance of powers that the Constitution most fundamentally addresses—and it is a balance that would be further endorsed by this amendment.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we begin a debate of historic proportions. Tomorrow we will have the opportunity to conclude this debate with a vote of vision and courage for our children and for our grandchildren. I am confident that this

body will accept the challenge to send to the 50 States a proposed amendment to the U.S. Constitution requiring a balanced budget. Let us truly let the people decide.

Part of the reason my confidence is bolstered today is the result of the vote we cast yesterday on H.R. 5333, which proposed yet another statute requiring a balanced budget. In the past when we have considered these meaningless statutory votes they have passed overwhelmingly, generally with a 400-plus vote, but yesterday we ended our wink-and-nod approach to fiscal irresponsibility, by a vote of 199 for, 220 against. We said that the crisis our country is moving toward if we continue to ignore our mounting deficits is too serious just to pretend to fix it.

I congratulate my colleagues for saying that they are ready to get serious about these votes. I am not surprised by the change of political sentiment this year, because I have seen new and renewed enthusiasm among our cosponsors.

□ 1330

This year we have a record level of 278 cosponsors of House Joint Resolution 290, including 119 Democrats and 159 Republicans. There are 14 Members who previously voted against the amendment who now have become so convinced of its necessity that they are current cosponsors. There is a group of freshman Members, both Democrat and Republican, who have pushed this issue forward over the last hump of resistance.

But obviously, we did not get to this place overnight. Now Senator LARRY CRAIG, TOM CARPER, BOB SMITH, and I have spent literally hundreds of hours with each other, with outside groups, with other Members during the past 8 years nurturing this language through the many evolutions to the point where we find ourselves today. We could not have developed this kind of internal support absent the leadership of Senator PAUL SIMON and our House colleagues, OLYMPIA SNOWE and JIM MOODY, nor could we have reached the place we are today without the assistance of the balanced budget coalition led by the National Taxpayers Union.

I include for the RECORD a membership list of this coalition at this time.

The list referred to follows:

THE BALANCED BUDGET AMENDMENT COALITION,
June 5, 1992.

AN OPEN LETTER TO MEMBERS OF THE HOUSE OF REPRESENTATIVES

The undersigned organizations urge you to vote for and support the Balanced Budget Amendment, H.J. Res. 290, as introduced by Representatives Stenholm, Smith, Carper, and Snowe.

H.J. Res. 290 has broad bipartisan support (278) total House cosponsors) and certainly holds the greatest potential for House passage. In 1990, a similar amendment fell just seven votes short of the two-thirds required for passage.

The need for this Constitutional Amendment has become obvious. Last year's federal budget deficit reached a record high of $269 billion. This year's deficit is estimated at an incredible $400 billion and FY '93 is presently expected to produce a deficit in excess of $350 billion.

Together, FY '91, '92, and '93 will add a total of $1 trillion in new federal debt. This shocking achievement contrasts sharply with the fact that it took 200 years for the federal government to accumulate the first $1 trillion in national debt.

We can no longer afford to postpone the passage of an effective Constitutional restraint on federal debt. In FY '93 alone, the cost of financing a $4 trillion plus national debt will exceed $315 billion in interest payments, the largest single expenditure in the federal budget. The time for action is now.

H.J. Res. 290 is a sound amendment that has evolved through years of work by the principal sponsors. It provides the Constitutional strength to make balanced federal budgets the norm, rather than the rare exception (once in the past 30 years), and it offers the proper flexibility to deal with national emergencies.

H.J. Res. 290 is also designed to make raising federal taxes more difficult. I would require a majority of the whole number of both houses of Congress—by roll call vote—to enact any tax increase. This adds accountability as well as an appropriate focus on spending restraint.

Unless action is taken now, federal debt and deficits will continue to cripple our economy and mortgage our children's future. For those important reasons, we urge you to pass H.J. Res. 290, the Balanced Budget Amendment.

Sincerely,

National Taxpayers Union; National Cattlemen's Association; Associated Builders & Contractors; American Farm Bureau Federation; Concerned Women for America; Americans for a Balanced Budget; American Legislative Exchange Council; International Mass Retail Association; National American Wholesale Grocers Association; Independent Bakers Association; National Independent Dairy Foods Association; Irrigation Association; Motorcycle Industry Council; American Supply Association; American Machine Tool Distributors; American Tax Reduction Movement; National Lumber & Building Material Dealers Association; National Truck Equipment Association; Door & Hardware Institute; Steel Service Center Institute; American Association of Boomers; National Grange; U.S. Federation of Small Businesses; Associated Equipment Distributors; Beer Drinkers of America; Truck Renting and Leasing Association; American Bakers Association; National Association of Homebuilders; National Association of Plumbing-Heating-Cooling Contractors; American Subcontractors Association; Howard Jarvis Taxpayers Association (CA); Connecticut Taxpayers Committee; Alliance of California Taxpayers & Involved Voters (ACTIV); Citizens for Limited Taxation (MA); United Taxpayers of New Jersey, Citizens Against Higher Taxes (PA); North Carolina Taxpayers Union; Texans for Limited Taxation; National Taxpayers Union of Ohio; Iowans for Tax Relief; Hands Across New Jersey; National Taxpayers United of Illinois; Tax Accountability '92 (IL); Angry Taxpayers Action Committee (IL); Northwest Ohio (Toledo) Taxpayer Action Network; Cleveland Taxpayer Action Network (OH); Alameda County Waste Watchers (CA); Taxpayers United of Minnesota; Texas Association of Concerned Taxpayers (TACT); West Virginia State Taxpayer Action Network; El Paso Voters Coalition (TX); Akron Taxpayers Alliance (OH); San Jose Family Taxpayers Outreach (CA); Taxpayers United for the Michigan Constitution; Taxpayers United for Assessment Cuts (MI); Delaware Taxpayer Mobilization Corps; Floridians for Tax Relief; Macomb County Taxpayers Association (MI); Florida State Citizens Against Government Waste; Tax PAC, Inc. (NY); Westchester Taxpayers Alliance (NY); South Carolina Association of Taxpayers.

And yet, all the efforts of the people I have just mentioned would have never happened at all were it not for the American people who repeatedly, year after year, have expressed their desire for a balanced budget amendment. We saw again just yesterday in the Washington Post that by more than a 4½-to-1 margin respondents to the Post-ABC poll expressed their support for a constitutional amendment requiring a balanced budget. I wish the Post would be more responsive to its readers' interests in the development of their editorials.

Why does the public care about the $400 billion deficit and the near $4 trillion we have accumulated? Because they understand far more keenly than Congress, apparently, and than the President seems to have understood for the past two decades that deficits are hurting them far more than any hypothetical budget cuts might.

When adjusted for inflation, the current year's deficit will be equal to the total Federal budget of 1965. This year will be the 23d consecutive year and the 31st out of the last 32 that the Government spends more than it takes in.

Fifty-three years out of 61 does not mark a short-term trend. It does mean that by the end of this year the national debt will top $4 trillion. That means that the Federal Government has charged $45,000 in debt on the account of each and every household in America. We have borrowed half-a-trillion of that from foreign investors. The United States is now the largest debtor nation in history. This long-term, institutional problem requires a long-term, constitutional solution: An amendment to the Constitution that requires the President and Congress to run a balanced budget.

A balanced budget amendment will not solve our deficit problem by itself. That is not what it was intended to do. This amendment will give us a necessary tool for fiscal responsibility—the very same tool which Thomas Jefferson recommended slightly less than 200 years ago. It will give us a constitutional reason to find the courage to make the tough choices necessary to

balance the budget. Too often, when faced from all sides with demands for more spending and less taxes we have taken the easy way out by borrowing more money. by raising the threshold of difficulty for deficit spending, this amendment would prevent anyone in the executive branch or in Congress from ducking responsibility for the deficit. under the amendment, spending may not exceed revenues unless Congress authorizes the excess by a three-fifths vote. Just as importantly, the President must submit a balanced budget every year.

History has proven that statutes and procedural requirements have failed. Congress has voted over 500 times to waive the Budget Act since 1978. We passed a statute in 1978 when our debt was $776 billion. We tried again in 1979 when the debt was $828 billion and in 1982 when the debt was $1.1 trillion. The debt was $1.8 trillion when we passed Gramm-Rudman in 1985, and had increased to $2.3 trillion when we passed Gramm-Rudman II in 1987.

Amending the Constitution is a serious step that should never be taken lightly. But a process that politically rewards such deficit spending cannot be tolerated any longer. Deficit spending has become an intractable, ingrained problem. Nothing short of a change of constitutional dimensions will change the Government's attitude toward spending beyond its means.

Our children and our grandchildren truly deserve no less than the passage of this amendment and are beginning to worry about their future rather than our present.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair is advised that the gentleman from California [Mr. PANETTA] is serving as the designee of the gentleman from Texas [Mr. BROOKS].

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, clearly we are embarked on what I believe is the most serious debate that the House of Representatives can engage in, which is the question of whether or not we amend the Nation's most sacred governing document to require a balanced budget. I think what this represents, when we get to the bottom line of all of the arguments that are going to be made, is that there are many Members here who are willing to make a giant riverboat gamble with our economy and with our Constitution in order to inject courage into cowards and to place a spine into the spineless.

I would just remind my colleagues that the Constitution already provides power to the people to deal with the gutless and those who are cowards when it comes to deciding issues related to our economy. It is called the right to vote, the right to vote. We do not have to change the Constitution to try to force courage into this institution. The people can do that through the right to vote, because as we take up this constitutional amendment, every Member and every constituent has to ask some very basic questions.

First, is this really the only alternative? Is this really the only alternative left or is this just another excuse for failed leadership, because that is the argument? When we get through all of the arguments here, the bottom line is that we have tried everything else, why not try the Constitution.

Well, what happens if the Constitution does not work? Should we go and ask for a papal edict, or maybe we should ask for leashes to be placed on every Member who does not do the right thing in terms of decisions. Or maybe we ought to ask that we have a bomber fly over the Capitol and threaten to drop a bomb on the Capitol. I mean how far do we stretch this when we are trying to deal with people who are elected to be leaders, to make the right choices, to do the right things?

The second question: Is this amendment designed to be enforceable, does it have teeth, or is this just another cover to get Members through the next election with the hope that maybe somebody else, some other President at some other time, maybe 5 years down the road when perhaps this will be ratified, maybe at that point there will be enough guts and enough courage to do the right thing?

□ 1340

I guess the last question is: Will this, in fact, force the tough choices that need to be made in a responsible fashion, or are we going to end up creating greater gridlock by placing this in the Constitution, by creating not only a governmental crisis, not only an economic crisis, but a constitutional crisis that will then wind up placing the most sensitive decisions about our economy not in the hands of the elected representatives of the people where it belongs but in the hands of the unelected judges of the Federal courts? No other industrialized nation, no other industrialized nation has placed their economy in this kind of straitjacket. Is that what we are going to do as we approach a new century where we have to compete with every other country? Are we going to tie our hands as we try to deal with the $5 trillion economy?

Those are the fundamental questions that have to be asked, because, my colleagues, as Budget chairman, whether this amendment passes or not, ultimately it will be the responsibility of the committee that I have the honor to be in charge of, ultimately it will be the responsibility of that committee to implement this kind of amendment.

Make no mistake about it, I deeply believe that the deficit is the greatest crisis we confront in this country. We are a country that is starving for resources right now, and no matter where you look throughout the country, whether it is the needs of inner cities or whether it is the problems of health care or whether it is the problems of education, whether it is the problems generally of our ability to kind of get out of this recession, it relates fundamentally to the deficit that confronts us, because we do not have the savings base, we do not have the investment base to be able to truly strengthen our economy. So it is a fundamental problem.

But I do not think we ought to kid people about why this problem is not being addressed. As many of you know, and I have been involved with many Members here, in every effort to confront this issue, whether it was Gramm-Rudman or whether it was budget summit or whether it was the 1990 budget agreement, the bottom line is that it is not easy to deal with this issue. It is not easy. You cannot achieve this through magic solutions. You cannot achieve this through gimmicks.

The only way you reduce the deficit is through tough votes on issues, tough votes. If you are not willing to take on the constituencies that are out there that have to be told the truth about the nature of our budget, if you are not willing to take on those constituencies, a constitutional amendment is not suddenly going to produce a midnight conversion.

What are we looking at? Because one of my concerns, frankly, in this debate is that we need to have an honest debate about the choice that confront us if we are going to balance the budget.

Whether you are for or against a constitutional amendment, put that to the side for a moment. Because if we are going to balance the budget, you have got to deal with certain fundamental realities regarding the nature of that budget. I regret that we are not having that debate at the same time that we are debating a constitutional amendment. But at some point we are going to have to enter that debate.

Let me discuss what those realities are. Because the public is entitled to know it; you are entitled to know it. Somebody here has to speak the truth about the real choices that have to be made.

The Congressional Budget Office has told us very clearly that to achieve a balanced budget by 1997 or by 1998, for that matter, you are looking at having to reduce in spending or raise in revenue, or a combination of both, somewhere between $580 billion to $600 billion, probably in excess of $600 billion now, because if you move the date to 1998, the deficit is larger that year because of health care costs.

But let us assume for the sake of discussion that we are looking at $600 bil-

lion in deficit reduction. How do you achieve $600 billion in deficit reduction? First, you need to look at the nature of the Federal budget.

The nature of the Federal budget, that $1.5 trillion Federal budget, look at how it is made up so you then look at where the decisions have to be made. Over 14 percent is now interest payments on the debt. It is one of the fastest-growing parts of the Federal budget, $214 billion. Deposit insurance is $89 billion. Add those two up. It is about 19 percent of the Federal budget just in interest and one deposit insurance. You cannot touch deposit insurance.

What is next? The entitlement programs. The entitlement programs now make up almost 45.4 percent of the Federal budget, $682 billion. What is the largest part of those entitlement programs? Social Security retirement, and disability make up almost 52.4 percent of these entitlements.

You talk about the growth in entitlements, the large part of that growth has taken place in that area, retirement and disability.

Medical costs make up now 31.4 percent of the entitlements, Medicare and Medicaid.

The rest are about 16 percent of the entitlement.

So you are looking at the greatest portion of entitlements being wrapped up in two areas, retirement, disability, and medical costs. If you want to deal with entitlements, you have to deal with those areas.

Defense makes up about 19.3 percent. It has been on a downward trend but clearly it is still a big chunk of the budget, and nondefense discretionary is now 16.4 percent .

If you look at where the deficit is, even if you got rid of all nondefense discretionary, you still would not deal with the deficit. So if you want to confront how you do it, we have suggested several ways to get there.

Let us assume you do not want to raise taxes. The President does not want to raise taxes. A lot of Members do not want to raise taxes. We are going to take it all out of spending. If you take it all out of spending, that is $600 billion over 5 years. Fifty percent of it has to come out of entitlement programs. You are looking at at least $300 billion that have to come out of entitlements. You cannot get the $600 billion unless a big chunk of it does not come out of entitlements. And if you are going to get $300 billion in entitlements, let me ask you: Where are you going to get that kind of savings? It has got to come out of the key areas. Medical care, Medicare, Medicaid represent about $114 billion of that savings. You have got to get about $100 billion out of the retirement and disability programs. How else are you going to get $300 billion in savings? It is not going to fall from the sky.

You have got to deal with target prices on agriculture.

Now, look, those are the real decisions. That is why people have not balanced the budget, because they have not had the guts to make decisions about whether or not we control health care costs, whether or not we deal with the growth in retirement programs or whether or not we deal with farm price supports. That is where the decisions are, and if you go home and you tell people, "Look, I do not want to cut your benefits," and you think a constitutional amendment is suddenly going to allow you to go back and say, "oh, by the way, the Constitution now says that I have to cut your benefits," baloney.

You have got to now get another chunk out of nondefense discretionary of about $135 billion. That means essentially you have to have a hard freeze on nondefense discretionary, and you have got to get another chunk out of defense, about 31 percent, which means a deeper cut in defense beyond where the President wants to go. Now, that is if you want to do it on the spending side.

If you want to do it with a portion in revenues, which I believe is probably the correct proportion, doing two-thirds in spending and a third in revenues, you can reduce some of the cuts in entitlements and some other areas. Then you have to answer the question: How do you raise the revenues? You are talking about the need then to raise in revenues about $200 billion.

To do that, you either have to limit tax deductions, you have got to increase tax rates, particularly on the wealthy, you have got to do a gas tax, or you have to do a value-added tax or a combination of all of those. Now, that is assuming you are willing to do revenues in addition to the spending cuts that I talked about.

Because if you want to limit some of these spending cuts, you have got to raise additional revenues.

The last choice is to do it 50–50, basically to $300 billion in spending savings and another $300 billion in revenues. But clearly that means you have to have larger tax increases to do that.

□ 1350

Now, my friends, those are the choices. There is no easy waste-fraud-and-abuse gimmick that you can use. I wish there was. We would have used it a long time ago, and you know it.

Oh, there is some waste, fraud, and abuse, probably in some of the very programs you have to go after to get some savings, but you cannot just do it all on waste, fraud and abuse.

You cannot do it all on growth. I am always surprised at how the administration says, "Oh, a portion of this can be dealt with through growth in the economy."

We assume the highest growth level. Let us assume a 4-percent growth level. There is not an economist who thinks we are going to see a 4-percent growth over the next 4 years, but let us assume we have a 4-percent growth.

The Congressional Budget Office says that at best that produces about maybe $90 billion to $100 billion in savings over 5 years.

Add to that the cap on entitlements that is proposed by the administration. What CBO says to us is that will produce maybe another $20 billion, $25 billion.

At best you are looking at $125 billion based on growth and a cap on entitlements. That leaves you $475 billion short.

Where is that going to come from? It is going to come from here, as I have shown you on the chart. Those are the choices.

If you are not willing to make those choices, there is not a constitutional amendment in the world that is going to give you the guts to do it. That is the bottom line.

Mr. Chairman, we do not need a constitutional amendment, we really do not. What we need is leadership.

The fact is that we enacted and carried out the largest deficit reduction package in the history of this country. In 1990, when the President of the United States said, "Let's sit down and develop a deficit reduction package of $500 billion," we did it. It was not easy. It took a lot of work, but we did it, working at it with the President's help and with the help of the leadership. That was not smoke and mirror. That was real, and we did not need a constitutional amendment to get it done. It took leadership from the President and from the Congress and that is the way you balance budgets.

In the end, it comes down to this. Members are going to say we support a constitutional amendment. We are willing to take this risk. We are willing to take this riverboat gamble because we think that tying this institution up in a three-fifths vote requirement plus a constitutional crisis, plus putting it into the courts, all of that crisis might just force leadership. That is really the argument.

This is designed to be a gun at our heads.

I am not willing to take that risk, Mr. Chairman. I am not willing to take that risk because I do not need a constitutional amendment to make the right choices. I believe the Constitution gives us all the power we need now if we are honest with ourselves and honest with the American people. Maybe that is not a good political statement to make in the short term, but it is the truth, and the people of this country know it.

Mr. Chairman, I reserve the balance of my time.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], the Republican leader of the House.

Mr. MICHEL. Mr. Chairman and my colleagues, first I want to applaud the

gentleman who preceded me in the well. I feel privileged in following him even though we will vote on opposite sides of the issue. But that does not necessarily mean that I have to stand here today condemning what he just said. There is so much truth in what he did say, particularly with respect to the candid way in which he laid out for us the problems with which we are confronted with by way of this humongously grown government and the difficulty in making expenditure cuts, and yes, the real key issue of making tough choices.

I guess maybe some of the most exhilarating moments that I have enjoyed in this House were in my more junior years when on the Appropriations Committee I would come to the floor with an amendment on a bill to cut a ticklish, touchy program, maybe carrying the day, and go home that night feeling I really had accomplished something worthwhile.

The gentleman from California also said you cannot balance the budget all on waste, fraud, and abuse. I am reminded of the time I came to this floor with an amendment on HEW Appropriations saying, "Let's cut waste, fraud, and abuse, by $500 million." I got rolled 2 to 1, and I would think, "Ye gads, what has happened to this House?"

There was one thing that changed it, however, from the gentleman's home State. There was a thing called proposition 13 out in California. They were against tax increases at that time out there and, boy, they let it be known in no uncertain terms. Three days after that vote, we had our appropriations bill on the floor again and I came up and this time I upped the ante. "Let's cut waste, fraud, and abuse by a billion dollars," and it passed by 3 to 1. I said at the time how quickly the message comes across the country all the way from California to change the mind-set around here.

Yes, I guess that is really what has to happen.

I want to say to the gentleman, I appreciate the time he has spent in the Budget Committee and the kinds of things with which he is confronted. It does come down to making tough choices.

Mr. Chairman, some constitutional amendments spell out specific rights so there can be no mistakes about them. The first 10 amendments to the Constitution come under that category. Other constitutional amendments expand already existing rights, the 19th and the 26th amendments, dealing with women's suffrage and the 18-year-old vote are such amendments.

But some constitutional amendments, at least one, are frank concessions of failure. Americans are not too proud to admit it when we make mistakes, and we try to correct them as best we can.

The 21st amendment, repealing the 18th amendment on prohibition, is a classic case of admission of failure. I believe that the proposed constitutional amendment on a balanced budget comes under the category of recognizing failure.

It is not, in my view, a failure of any one party, although our current system of divided government certainly played a major role. It is not an exclusive failure of any specific branch of government, although the executive branch and the legislative branch have failed to show real leadership here. It is instead what might be called a systemic failure, a failure of our democratic system in all its complexity, and perhaps because of that very complexity.

The politicians blame each other about the deficit. And the people blame the politicians. But when the Constitution refers to "We, the people," it means all of us, elected officials and those who elected them. There are no outsiders in our system of government. Each of us is part of "We, the people." No American citizen is outside the responsibility of how our system works. Each of us, elected officials and other citizens, bears a different kind of responsibility for the American system of government. Over the many years I have been in the House I have heard many calls for a balanced budget, but very, very few calls from folks who say, "I want a balanced budget, and the first thing I want you to do is make a deep cut out of my particular favorite item in the budget."

Everyone is for a balanced budget in general, but no one wants his or her specific item to be cut.

Some say what we need is a whopping tax increase to balance the budget. But such a call is in the realm of fantasy, in today's circumstances. We can raise taxes until the cows come home and we will never ever balance the budget, unless we cut spending.

At this point we might hear, "But you politicians are supposed to have the guts to make those cuts."

The answer, plain and simple, is those who call for guts on the part of the politicians are the first to criticize them if they vote for tough budget cuts.

The gentleman made mention of how we worked together with the leadership on both sides of the aisle a few years back to craft a deficit reduction package. The proposition we brought to the floor of the House was roundly condemned because it contained some rough reductions and tax increases. It went down the first time because we had some of those real touchy items in there—not many, just a couple.

□ 1400

Brother, did we hear from everybody under the Sun. We have to assume that each and every one of you elected by your constituencies were reflecting the views of those folks back home or you would have never voted in that way.

I heard: "I am getting too much heat from home, the phones are ringing off the hook, my goodness, look what you did by freezing this thing that I have become so accustomed in Federal expenditures to benefit people back home."

Well, critics say even if we have an amendment, we will still have to make the very same tough cuts we are not willing to make now. So what good would an amendment do?

My answer is this: The amendment process demands that three-quarters of the States approve the proposed amendment if we pass it here. That means the question leaps over the beltway and goes directly to the people. We tried to balance the budget from inside the beltway without the force and moral authority of the constitutional imperative to guide us. And as the farmer said when asked for directions, "You can't get there from here." We have got to begin anew.

So that is why we are considering the proposed amendment.

Let me say this about the scare tactics being employed by some of the opponents of this proposed amendment. Social Security will not, repeat will not, be affected by a constitutional amendment any more than it is under current law.

I am voting for this proposal not because I think it is all that good in itself but because I perceive a universal failure to make the tough calls.

Let us therefore give the American people a chance to tell us, through a constitutional process, what they want done about the budget deficit. We in Washington have not decided, so now let us have the people decide. But whatever happens, let us stop all this nonsense about outsiders. There are no political outsiders in the United States except for those who deliberately fail to participate in the duties of citizenship.

We the people are all inside the Constitution. We the people have to make the tough choices. We have not made them on the deficit, so let us try a new approach and constitutionally mandate what we have not been able to do.

The CHAIRMAN. The gentleman from Illinois [Mr. MICHEL] has consumed 8 minutes.

Mr. STENHOLM. Mr. Chairman, I ask unanimous consent that my time be divided with the gentleman from Oregon, and that every other time he be recognized in my stead as my designee.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair will recognize the gentleman from Oregon [Mr. SMITH] as the designee of the gentleman from Texas [Mr. STENHOLM] as requested.

Mr. SMITH of Oregon. I thank the gentleman for yielding.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and Members of the House, I first want to thank my dear friend, CHARLIE STENHOLM, for his bipartisan thoughts in this whole matter and yielding me, as cosponsor of the Stenholm-Smith amendment, the time that he has. He has been most gracious. Working with him for the last 10 years has been a joy.

One of the great things you receive when you come to this body is the endearment of friends that you make. And they are lifelong friends, as we all know.

Mr. Chairman, I came to this Congress 10 years ago, and at that point I deeply believed that deficit spending was stifling economic growth, was burdening our children with mountains of debt, and limiting our national potential to try to provide prosperity for all of us.

So I joined my friend and colleague, then LARRY CRAIG, and now Senator CRAIG, who was a Member of the House. And we took on the balanced budget amendment as our own and succeeded the esteemed Barber Conable from New York. Some of you may remember him as an outstanding Member of this body.

Later, LARRY CRAIG and I were joined by CHARLIE STENHOLM, TOM CARPER, OLYMPIA SNOWE, and others and came within seven votes, as you know, of passing a balanced budget amendment to the Constitution a few years ago. This time, together we have constructed a broad, bipartisan coalition in support of this amendment, and I am very, very proud of that effort, whatever the outcome of this debate.

Mr. Chairman, in 1982 I was shocked and angered at a $1 trillion debt when I arrived here. Well, I am four times more angry today than before because the debt, my friends, is $4 trillion. I am particularly angered about the cavalier way in which the Congress, and, yes, in some cases the President, has assumed deficit financing to be the plaything of the rich and the powerful and not the scourge it represents to future generations. This country and this Congress are not supposed to be about the game of chasing down pork, grabbing what we can and damning future generations with our irresponsibility.

We are not operating in a vacuum. Our actions do have consequences to others. Our country and our people have a great past, and we ought to protect it. But we owe as much to the future America and its people because they will have to live with the consequences of our decisions.

Today, the need for a balanced budget amendment to the Constitution is greater than it has ever been in the history of this country.

Recently—some like to quote the General Accounting Office—recently they issued a report about the impact of continued deficits. Let me quote them:

> Failure to reverse these trends in fiscal policy and the composition of Federal spending will doom future generations to a stagnating standard of living, damaging U.S. competitiveness and influence in the world, and hamper our ability to address pressing national needs.

Well, that ought to be a definite alarm for every Member of this body. Sadly, it may not be.

Some Members still believe, I suppose, that there is some fundamental worth in deficit spending. And that attitude, by the way, is wearing very thin on the American people.

Mr. Chairman, the American people think this Congress is a joke. In fact, 77 percent of them disapprove of the job that Congress is doing. They see a body that has abused its credit, the House bank; abused its privileges with the Nation's drug laws, the House post office; and would not even pay the tab at its own restaurant.

The American people are justifiably angry and confused that the Congress cannot address the real problems and touch their real problems and their lives.

Well, today we cannot only address something that matters to the American people, we can address the most threatening problem we face as a Nation.

The balance budget amendment could well be the most important piece of legislation you will ever consider as a Member of the House of Representatives.

Mr. Chairman, the Stenholm-Smith amendment, balanced budget amendment, is simple and straightforward. It would require Federal budgets be balanced by 1998; running deficits require a three-fifths vote on each side, on each House, and three-fifths vote would be required to raise the Federal debt limit. Taxes could be raised only by a constitutional majority. We make exceptions for declared war and military conflict, and we require that the amendment be enforced by statute, thus taking it out of the court system.

The balanced budget amendment would put this country back on the path to fiscal sanity. We are long, long overdue.

Remarkably, some still oppose the amendment.

There are numerous arguments, misleading and contradictory, but basically they come down to two points after you have heard the scare tactics, "This is going to go into the courts or it is going to make huge taxes; we are going to ruin Social Security." You have to get by all that and basically you have two points. Some say that the amendment will not work, and the others say, "My goodness, it is so draconian that it is going to be worse than deficit spending itself."

Well, Mr. Chairman, I fail to see how something that will not work can be draconian. I have put that contradiction aside, and opponents are wrong on both counts. The amendment will work, Mr. Chairman, because it is already working. Think of it; were it not for this discussion, Mr. PANETTA's staff would not be focusing on the deficit and offering these harsh, harsh decisions.

The major networks would not be offering time to Presidential candidates to discuss the deficit, and we would not be here today discussing the very issue.

Opponents of the balanced budget amendment know it would work, and that is exactly why they oppose it. And the amendment would not be draconian. To suggest otherwise is, again, crying wolf. Assuming a reasonable growth consistent with past recessions, the budget can be balanced without cutting taxes, without cutting Social Security and without raising taxes. It can be done.

□ 1410

Now, make no mistake about it. Balancing the budget will require that we control spending. It will require discipline, and it will require tough choices. Without a balanced budget amendment, these tough choices will never, never be made, and without it it is business as usual, which this country cannot afford.

Above all, Mr. Chairman, the balanced budget amendment will change the psychology of the way we do business here. The typical big spending, pork barrel way we work will be reformed. Unlike the way we operate today, the bill will become due and payable. Gone will be the time-honored practice of grappling for every scrap of pork we can find. The new measure of effectiveness will be, not how much we can spend, but how much we can save. This amendment will radically change the way Congress operates, and, if there is one thing the American people want, it is to radically change the way Congress operates.

Mr. Chairman, the question in the end ought to be this: "Whose side are you on? Are you on the side of special interests? The status quo? The irresponsible pork barrel spending that got us into this budget mess? Or are you on the side of our children, our grandchildren, and the generations that follow them to whom we have already left a $4 trillion debt?"

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I have a great deal of respect for the gentleman from Oregon [Mr. SMITH], but when he starts saying to the American people that we can balance this budget based on growth, not touch anything in the retirement area, particularly Social Security, and not have to raise taxes, he is engaging in smoke and mirror ar-

guments that just are not true, just are not true.

Mr. Chairman, the American people ought to be told the truth if we are going to balance the budget. The reason we have not balanced the budget is because we are not telling them the truth; and it does not help, very frankly, for the gentleman from Oregon [Mr. SMITH] to say that somehow we can reach for these answers out of the sky and balance the budget.

Mr. SMITH of Oregon. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Oregon.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman from California [Mr. PANETTA] for yielding to me, and, as my colleagues know, I have been criticized for a lot of things, but never, never have been criticized for trying to misstate the truth, as the gentleman has done.

So, Mr. Chairman, let me say to my friend: I'm not misstating the truth. I am being helpful because your assumptions, my friend, are $600 billion over the 5-year period, and I can suggest that because your assumptions are so low, history doesn't indicate that on growth in this country. They are $300 billion too high.

Now, if you accept my assumptions, which are the average of about 3.2 percent in growth over the next 5 years average, over the last 22 years you'll get to $300 billion rather than $600 billion.

Mr. PANETTA. Mr. Chairman, let me take my time back. Even with 4-percent growth, if we assume 4-percent growth, we only get about $100 billion over 5 years out of that $600 billion.

Mr. SMITH of Oregon. Will the gentleman yield?

Mr. PANETTA. No. I say to the gentleman, you're assuming less growth now at 3.2 percent, which means less that we can take off the budget.

I just want to ask the gentleman, Where are you going to get the other $475 billion?

Mr. SMITH of Oregon. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Oregon.

Mr. SMITH of Oregon. Mr. Chairman, I am going to suggest to the gentleman from California [Mr. PANETTA] that by using the caps that he has already agreed with with the President, by providing, not only increased people, but also CPI for Social Security and for all the other mandated programs——

Mr. PANETTA. Reclaiming my time, Mr. Chairman, the gentleman wants to limit CPI on Social Security?

Mr. SMITH of Oregon. And limiting defense spending, and limiting foreign payments——

Mr. PANETTA. That is fine.

Mr. SMITH of Oregon. We can get to 1998 without the draconian babblings of the gentleman from California.

Mr. PANETTA. Reclaiming my time, Mr. Chairman, the gentleman suggests that we ought to limit CPI.

Mr. SMITH of Oregon. No. I said attaching CPI to Social Security and all the mandated programs, allowing us to grow at 3.2 percent per year for the next 5 years, capping defense spending, which is a conservative program, limiting foreign payments, we can get there without the gentleman's ideas about a draconian——

Mr. PANETTA. Again I want to take my time back because, if the gentleman from Oregon [Mr. SMITH] is saying we ought to limit all CPI to 3.2 percent——

Mr. SMITH of Oregon. No, no, no, I did not say that.

The CHAIRMAN. The gentlemen will direct their remarks to the Chair.

Mr. SMITH of Oregon. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Oregon, but I would like to ask for the clarification. The gentleman is suggesting that we ought to limit all CPI to 3.2 percent.

Mr. SMITH of Oregon. I did not say that.

Mr. PANETTA. Well, what is the gentleman saying?

Mr. SMITH of Oregon. I said, "If you allow 3.2 percent growth, which has been the average of growth over the last 22 years, down cycles, up cycles in this country, not your 2.6——

Mr. PANETTA. I say to the gentleman, you're spending money. How about saving money?

Mr. SMITH of Oregon. Now wait. I am trying to answer the gentleman's question.

Mr. PANETTA. All right.

Mr. SMITH of Oregon. Then I am saying, if you allow Social Security with increased people, which it will have, as well as cost of living, cost price index, you can do that. If you do that to all other mandated programs, assuming a 3.2-percent growth, not your low figure, and by 1998 you can balance the budget without taxes, and you will not infringe upon Social Security.

Mr. Chairman, nobody is suggesting we infringe upon Social Security.

Mr. PANETTA. Mr. Chairman, the gentleman is telling me we can get $600 billion in deficit reduction——

Mr. SMITH of Oregon. No.

Mr. PANETTA. Through providing 3.2 percent growth.

Mr. SMITH of Oregon. No, I am saying to the gentleman, your assumptions are wrong to begin with, that the problem is $300 billion, not $600 billion that the gentleman is using in his remarks.

Mr. PANETTA. Mr. Chairman, we have the Congressional Budget Office which has told us we need $600 billion over 5 years. The gentleman is probably taking the right pitch here, which is to say, "I don't accept those numbers, I don't accept those numbers. I want to accept fewer numbers, and then I can deal with it easier."

But the fact is that the Congressional Budget Office is pretty good in telling us what the targets are. It is $600 billion, and we cannot do that through growth, and we cannot do that through saying that we are just going to limit growth of some kind. We cannot do that by saying we are not going to deal with retirement programs, and we cannot do that by saying we are not going to deal with taxes.

Mr. Chairman, that is the fact.

Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, the self-abuse that has been practiced by Congress over these past few months has been very hard to comprehend. It is even more difficult to understand the complete failure of certain Members to rise above the fray and show true leadership.

It is not leadership to enshrine the failure of Congress by approving a constitutional amendment and make future Congresses pay the price for our failure as an institution. Worse than the impact on future Congresses is the impact on the American people.

We are asking the American public to believe that this simple amendment is the equivalent of the changing copper into gold. A simple amendment, it is claimed, will provide backbone and moral authority where there has been none.

This simple amendment will ensure that all programs desired by the American public are funded and paid for within the confines of a balanced budget.

Somehow a number of Members have managed to delude themselves and others into thinking that if just one more power is given up by Congress maybe the American public will like us better.

Has it ever occurred to Members who support this amendment that maybe we would have a better approval rating if we simply spent time actually doing our job? More importantly we should be addressing the real problems of today's world.

This is one of the most serious votes we can cast apart from a decision on whether we should commit troops to war. I do not believe I am exaggerating.

The debate is not just about dollars and cents. This is about the ability of Congress to respond quickly and with flexibility to the crises in our Nation and also of the world.

The amendment simply does not meet the standards we should be setting for ourselves in Congress for approving legislation.

Even the chief sponsor has publicly admitted that there may be problems with interpretation and enforcement of the amendment. His response has been to suggest last minute changes to the

original amendment. But the changes only reinforce the flaws of the amendment. There are still a number of serious deficiencies that are only exacerbated by the simplicity of this solution.

First, the amendment does not set out any process concerning judicial review.

Unless Congress exercises its authority to preclude judicial review, this amendment, as any amendment, will be subject to litigation. Contrary to other amendments, however, this one purports to control the constitutional budget functions of Congress.

Delay in the budget functions of Congress can lead to chaos and have an undue economic impact on the entire national economy.

The minimal explanation of terms invites litigation. There is no comprehensive definition of the terms used in the amendment. The terms are all encompassing and do not seem to allow for any future statutes that permit exceptions, a contention put forward by supporters.

Without a defined enforcement mechanism, there are several possibilities including the inability to enforce the amendment. A court could refuse to review the amendment deeming it a political question—similar to the War Powers Resolution.

The judiciary may decide to take jurisdiction and dictate to Congress how and when the budget is to be completed.

Second, the amendment could lead to a significant increase in Presidential power.

A President could blackmail Congress into passing only their programs. A President could refuse to submit agreed estimates of outlays and receipts unless Congress agreed to their programs.

Third, the House will be ruled by a minority of Members.

The amendment permits only a minority of Members, two-fifths of the House membership, to control the House. Three-fifths of the membership is required for a specific excess of outlays over estimated receipts.

Furthermore, the new changes permit a simple majority to approve deficit spending for military actions that constitute national security. Once again, domestic concerns are given short shrift. Three-fifths is required for any deficit spending for domestic emergencies.

Panama, Grenada, and the Persian Gulf could be financed with a simple majority ease; recovery from Hurricane Hugo, the San Francisco earthquake, and the recession require super majorities. This is an insult to the domestic needs of this country.

Fourth, if the amendment passes, we would be adopting minority rule not for an extraordinary function of Congress but for the most basic responsibility of the Congress.

There is no question that Congress has to accept responsibility for the failure to pass a balanced budget. Every one has trouble voting against those programs that constituents demand and desire.

But it has also been a result of a failure of leadership on the part of the President who has failed to ever present a balanced budget to the Congress.

The President can continue to submit budgets that require deficit spending as they have continually done and then expect Congress to bear the wrath of the public for either raising taxes or cutting popular programs.

It may be politically popular in the short-term future to vote for this amendment and I am sure that a yes vote will make a wonderful political commercial.

But this is not a matter of political expediency and it is not a popularity contest. That type of reasoning has led us to the present situation of not having a balanced budget.

The fundamentals of shared power and majority rule—these are the consequences of the vote today. The integrity of this institution is at risk—as it has been many times this year. Members should reject these amendments and get back to the job they are supposed to do.

□ 1420

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, 2 years ago supporters of a balanced budget amendment in this body came very close to mustering the two-thirds affirmative vote the Constitution requires. This week, as we revisit a critically important issue, we note with regret that the Nation's need for the discipline of constitutional change is greater than ever. A projected deficit for the current fiscal year in the $400 billion range significantly exacerbates the heavy burden our enormous national debt imposes on our children and grandchildren. When we shirk our responsibility to pay our own bills, we unfairly transfer the costs of our self-indulgence to our descendants.

Decisions to amend the Constitution must not be made lightly. If a legislative remedy exists, that obviously is preferable to a change in our fundamental charter. Some argue that we should utilize the legislative process to balance the budget before resorting to a constitutional amendment. We have. Legislation has not worked.

Huge deficits have proved intractable in spite of the 1974 Budget Act, the 1985 Gramm-Rudman-Hollings Act, and the 1990 Budget Reconciliation Act. Congress has waived the constraints of the Budget Act hundreds of times. The experience with Gramm-Rudman-Hollings is strong evidence that Congress encounters virtually insurmountable pressures to circumvent deficit ceilings when those ceilings lack constitutional statute. And in the fall of 1990 Congress completed an arduous effort to come to grips with the deficit—cutting $500 billion over 5 years—only to see the deficit rise in the next fiscal year.

A balanced budget amendment is needed to overcome the current prospending institutional bias of the Congress. It is far easier for an individual legislator to vote for spending increases and lower taxes than it is to support a balanced budget. Today, those who advocate spending for particular programs are in a stronger position to influence Congress than those who seek to restrain the growth of spending. A new or expanded program may have a major impact on particular constituent groups but only a minimal impact on the deficit. The advocates of spending possess a focused interest that facilitates action—in contrast to the more diffuse public interest in resisting specific increases in expenditures. It is for this very reason that I support—as a needed enforcement mechanism—a line-item veto tailored specifically to this amendment.

The problem, of course, is that projects may add little to the deficit—when viewed in isolation—but have a major impact when viewed collectively. The balanced budget constitutional amendment—by making it more difficult to engage in deficit spending—encourages Members of Congress to view the overall consequences of particular spending decisions. The proposal is to require a three-fifths vote of each House, of its total membership, before outlays may exceed estimated receipts.

Economic matters clearly fall within the Constitution's purview. The treatment of interstate commerce, taxation, and property rights provides examples of a constitutional design that gives substantial attention to economics. The argument that our Constitution must maintain neutrality on economic issues disregards the reality of a fundamental charter that incorporates economic choices. An expression of preference for adherence to balanced budget principles would have sounded superfluous two centuries ago—but is far from superfluous today.

A constitutional amendment protects future generations—those who will bear the burden of an increased public debt but who cannot participate in decisions to increase that debt. The requirement of a three-fifths vote of the total membership of each House to increase the public debt represents a recognition of the impact of debt increases on generations unrepresented today in our political institutions. Laws increasing the public debt should reflect a broader consensus of our society than ordinary legislation.

The balanced budget constitutional amendment should require a three-

fifths vote of the total membership to increase taxes. Such a provision is appropriate to discourage reliance on tax increases alone to bring the budget into balance.

The United States undoubtedly will confront situations justifying deviations from the norms that underlie this constitutional amendment. The proposed amendment does not bar deficit spending, public debt increases, or new taxes, but rather incorporates special voting requirements in order to do so. In a national emergency or period of economic dislocation, the proposal should contemplate that Congress will vote to take the appropriate action—whether that involves engaging in deficit spending, raising the debt ceiling, or altering the tax burden. The important point is that decisions to deviate from economic norms will be made—in the national interest—with greater care and thoughtfulness.

The understandable reluctance to amend the Constitution, if legislation will solve a problem, must now give way—in my view—to a recognition that legislation has not prevented runaway deficits. I call upon those who have been skeptical about such an amendment in the past to join with me now in supporting constitutional change. We simply cannot afford to lose more ground in our effort to bring Government spending under control.

□ 1430

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Chairman, I rise today in support of the Stenholm balanced budget amendment, and I urge my colleagues to do the same.

Someone once said that there is nothing so great as an idea whose time has come. Well, this is the time and this is the place to discuss a real way to balance the budget.

The idea of a balanced budget was first proposed by Thomas Jefferson in 1789, who said, "The public debt is the greatest of dangers to be feared by a republican government." That was true then. And now—203 years later—his wisdom is truer than ever as we face a tripling of our national debt in 10 years and an increase of nearly $400 billion each additional year.

Have we no thoughts or concern for the future generations of this country? We are so thoughtful today of those who are aged, those who are infirm, those who are disadvantaged, those who are unemployed. And we should be. But do we have no concern for the aged and the infirm and the unemployed of the next generations? And do we have no concern for our children and their children who will face interest payments equal to 50 percent of the annual budget to pay for our borrowed compassion?

The time is now to answer these questions. We have tried hit-and-miss solutions during the past 8 years. Gramm-Rudman I, Gramm-Rudman II, budget summits with the White House are all examples of failed efforts to bring discipline to our budget decisions.

Without some constitutional enforcement of a balanced budget, I am convinced we will never get there. We will always find some excuse, some worthy program to fund, some national emergency to address—to avoid gut-wrenching decisions. With the amendment before us this week, we can achieve the discipline we need, yet provide for serious and Nation-threatening contingencies.

In reviewing the mail and telephone calls coming into my office opposing the amendment, I am shocked and disappointed. Maybe I should not be because each group has a reason. If their interest is spending, they want to protect their particular programs. If it is taxes, they want to avoid sharing any more in the deficit reduction.

Yet I am shocked by the irresponsibility of these groups who continue the old theme of looking after their interest today, and to heck with the generations that follow.

Some 15½ years ago I came to Congress thinking that we were here to solve problems. We had a deficit then, and we have one today that is nearly 10 times as great.

Solving problems means that everyone involved must participate in the solution. By doing this, no one group will suffer alone, but all will participate in the sacrifices that must be made. But that does not seem to be the way the system works. The system seems to protect everyone's interests and postpone the day of reckoning—a vicious cycle which spirals the deficit upward and simultaneously makes it harder to bring spending under control.

Such cowardice is not what this country is about.

Our forefathers began the Constitution "We the people." They understood that this country stood or fell on the American people standing together.

The single outstanding attribute that has made this country great has been the character of our people standing together in time of conflict. We have a great record of coming together in time of war, time of crisis, time of need.

My friends, we are in a crisis today. There has never been a time when we were in greater peril. No, it is not a war. But it is of such economic consequence that we are in just as much danger as if we were in a war. We are destroying the country bit by bit by inviting foreign investment, encouraging the trade deficit, driving down incentives for businesses to make capital investments, and discouraging personal savings.

I am confident that we as a nation—and we as its leaders—can pull our country out of debt. Yes, it will hurt. The opponents are absolutely right when they say a balanced budget will cause more pain than most people imagine.

Our people will have to realize—and Congress and the President will have to tell them—that the Federal Government can no longer be all things to all people. We are, without a doubt, looking at cuts in defense, cuts in domestic spending, cost containment of entitlements, and increased revenues. There is no magic pill.

Mr. Chairman, before I close, I want to look ahead to some other budget changes which have been a long time in coming. I hope with a new sense of commitment to budget reform, we can enact a 2-year budget, an operating budget versus a capital budget, and a review of entrenched entitlement programs.

Combined with a balanced budget amendment, these changes will result in a profound reordering of the budget process which will put Congress on a rational, orderly system for making the fiscal decisions for generations to come. If we are all willing to do our part and make sacrifices, we can accomplish the task at hand—and rescue our great Nation from irreparable harm.

Let's start by forcing discipline on our budget system. Vote for the Stenholm substitute and set in motion for all time to come an economic policy that made sense 203 years ago and makes sense today.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. MATSUI], a member of the Committee on the Budget.

Mr. MATSUI. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, about a month ago we met late one evening and we talked about a potential constitutional crisis and how the vote we were going to take that night was one of the most important we would take in terms of the Constitution. That was the issue of whether or not to comply with the subpoena that Judge Wilkey imposed upon the House. I think that issue is so minimal compared to the issue we have before us today that I hope my colleagues will not look upon this issue politically but will look upon it in terms of what might happen 10, 15, 20, 50 years from today.

I think this vote may be more monumental than any of us will ever have taken in the House of Representatives.

In addition, I would like to make one comment so that there is no misunderstanding about what we are doing today. Whatever vote we take today will not balance the Federal budget. It will not reduce the deficit by one penny. It will have no impact on the spending programs and taxing programs of the Federal Government this year. It has nothing to do with the deficit this year.

Many Members will use this vote for political cover back home and say, "I voted for a balanced budget, but my colleagues were the ones that did not support what I wanted to do." But we have heard that over and over again, have we not?

I would like to just mention what the gentleman from Oregon said. He lamented that he came to the Congress in 1982 and now, in 1992, 10 years later, the national debt went from $1 to $4 trillion. That is true. It has. It went up by that amount.

The increases we have had over the last 10 years, I might just mention to the gentleman, have been these four items: Interest on the national debt, which we know we cannot affect; second, defense spending—we have had enormous defense spending over the last 10 years and most of these Members that support this balanced budget amendment have supported every increase in defense over the last decade; third, Medicare, the health program for senior citizens; and fourth and last, tax cuts.

Those are the four items that have contributed to the $4 trillion deficit. And so if we want a constitutional amendment, if we want to cut the deficit, we are going to have to cut interest on the debt, which I am sure we will not, Medicare, which I am sure politically most Members will not. And who is going to support a tax increase after all those tax cuts over the last decade? And defense, yes, we are cutting the defense budget but not nearly as much as would be necessary to make any dent in the deficit.

Let me conclude by making an observation. The gentleman from New York [Mr. FISH], who we all have a great deal of respect for, said we have tried statutory means to balance the Federal budget, Gramm-Rudman, the Budget Act of 1990. And he said, "They didn't work." So now we need a constitutional amendment.

Mr. Chairman, the reason those other items did not work, it was not because it was statute. It was because of a lack of leadership in the White House and in the Congress. And just because we have a constitutional amendment, it does not mean that all of a sudden we are going to have a backbone and we are going to have leadership.

It is going to require honesty and truth to our constituents. It is going to require making tough decisions and maybe taking a political risk of defeat in an election. That is what is required to the American public, not a constitutional amendment that will add garbage to a wonderful, beautiful document that is over 200 years old.

What we need is leadership. Unfortunately, this will not contribute to that.

Mr. FISH. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN of North Carolina. Mr. Chairman, this part really should not be so difficult.

If Jefferson or Madison could have anticipated the failures in leadership that have produced annual deficits and accumulated debt which have sapped our economic strength and placed unacceptable burdens on ourselves and our children, they would have passed a constitutional mandate 203 years ago without much question.

To those who say the Constitution is too pure to amend for budget purposes, I would like to cite the 16th amendment, which was passed overwhelmingly in 1909 and ratified in 1913, establishing the income tax. Is a balanced budget less important?

The Constitution vested the power to spend in Congress alone in one sentence. They did not foresee that the balance of powers would become an imbalance of powers in favor of Congress and result in an annual game of political chicken that rewards the special interests at the expense of the national interest.

The amendments we consider today will codify a basic value and economic imperative for our Nation. It is the only practical means we have to force the achievement of a balanced budget by 1997 and thereafter.

There are those who say the issue is not constitutional but one of leadership from the White House and this House. Ideally, I agree, but it has not happened in 25 years and promises to get worse.

Congress has been unwilling to say "no" to the chorus of demands placed on it. So long as Congress or the President can simply increase debt to avoid tough decisions about limiting spending, it will continue to do so. We need a constitutional imperative around which to rally.

Balancing the budget will not be easy. That is why it has not happened in recent times. But it will be done if we constitutionally set a goal of balance by 1997 and every year thereafter.

There is no better argument for a constitutional mandate than the chorus of opposition coming from special interest groups all across the land. What they oppose is not a balanced budget amendment, as they assert, but its subsequent practical effect. Congress would be forced to make spending and tax decisions, year in and year out, and none of these groups want those decisions to be made to their disadvantage. They prefer the status quo.

I believe that this Congress has the will to adopt the mandate of a balanced budget. Without an amendment, Congress will not have the collective will to make the tough decisions.

This action will decide the question of whether and when to balance the budget and force Congress to resolve the question of how.

It is interesting that the House-adopted budget for fiscal year 1993 does not begin to reflect the courage to balance the budget by 1997. But the prospect of the passage of this amendment already has the Budget Committee looking at ways to reduce the fiscal year 1993 deficit by $38 billion in order to get on track for balance by 1997. That's it in a nutshell.

I intend to vote for most of these constitutional proposals but I urge my colleagues, particularly on the Republican side of the aisle, to put aside differences in detail in the end and vote for the Stenholm-Smith proposal because it is the only one with sufficient bipartisan support to carry the day.

□ 1440

Mr. SMITH of Oregon. Mr. Chairman, I yield 5 minutes to the gentlewoman from Maine [Ms. SNOWE], who is a primary sponsor of this balanced budget amendment to the Constitution.

Mr. FISH. Mr. Chairman, I yield 1 additional minute to the gentlewoman from Maine [Ms. SNOWE].

The CHAIRMAN. The gentlewoman from Maine [Ms. SNOWE] is recognized for 6 minutes.

Ms. SNOWE. Mr. Chairman, I thank the gentleman for yielding. First of all, I want to commend the leadership and fortitude of the gentleman from Texas [Mr. STENHOLM] and the gentleman from Oregon [Mr. SMITH], and I have been very pleased to be part of this effort here today in bringing out the Stenholm constitutional amendment.

Mr. Chairman and members of the committee, as we begin to debate the various constitutional amendments today, we should all recognize that Congress has institutionally and politically arrived at a historic crossroads. Two years ago the House of Representatives debated the merits of a balanced budget amendment. That amendment was defeated, and look how far we have come. We are $700 billion further in debt, and once again debating the feasibility of a constitutionally mandated fiscal approach. In short, we are here again because Congress has utterly failed. It would be wise, I believe, to recognize that failure and begin to address the solutions.

How much proof do we need? How much debt is finally too much? Should we stand at the door and welcome catastrophe when it strikes?

In 12 short years the deficit exploded from $78 billion to more than $350 billion. The combined deficits of fiscal years 1991, 1992, and 1993 will add an additional $1 trillion. Gross interest payments on the national debt will exceed all the spending on domestic discretionary programs. Sixty-one percent of all personal income taxes will be paid for debt service payments. Fifty-eight percent of national savings in this country is consumed by the Federal Government because of its debt service and debt payments. This is in spite of all that we have done, Gramm-Rudman

I, Gramm-Rudman II, the budget summit agreement of 1990, the longstanding laws on the books to require a balanced Federal budget, which included the Revenue Act of 1978, the Byrd amendment of 1978, the Humphrey-Hawkins Act of 1978.

I offered, along with some of my colleagues, as part of the 1992 group in 1985, prior to Gramm-Rudman, a package, the only budget that was scored by CBO; not even the budget offered by the Committee on the Budget was scored by CBO, and our budget would have achieved $274 billion in savings over 3 years, but it was to be rejected by the Congress because they were not prepared to make any deficit reductions, even in the good years.

Make no mistake about it, this spending binge has put the United States on a very dangerous and uncharted course. We have no way of knowing how bad things will get if we continue on this path and we continue with business as usual.

In recent weeks many people have raised some questions about the implementation of a constitutional amendment. Skeptics ask, "What if appropriations exceed estimated revenues? What if the President and Congress underestimate the amount of Federal revenues in a fiscal year? What if it requires budgetary adjustments as a result of a contracting economy, or inaccurate estimates?"

Well, welcome to the real world. That is exactly what most of the States in this country have been confronting. Amidst a serious recession and unprecedented loss of revenues, the Governors and State legislators are making the tough decisions. They are deciding how much Government people are willing to afford in the difficult times.

What is their magic formula? What secret do they have to be able to reach agreement in these difficult times? Like Members here today, every Governor and every State legislator is required to swear to protect and defend and uphold their constitution.

We are required to uphold the Constitution of the United States. Their commitment to defend the very foundation of their States ensures fiscal responsibility. Who among us is suggesting that we are going to violate our oath of office by not upholding the Constitution of the United States? I say without question we will do it because our solemn oath demands that we will do it.

And some have claimed that a balanced budget amendment will force cuts in Social Security. Such arguments are scare tactics, designed to raise doubts about a program that workers pay for through taxes. I do not favor cutting Social Security, since it is a unique program, with individuals receiving benefits based upon the contributions they pay into the system.

To threaten Social Security benefits would be to threaten the bond between retirees and the Government system they supported throughout their working years. No reading of the balanced budget amendment would suggest that this would happen. Social Security must continue to be the foundation on which workers can depend on in their retirement years. Efforts to produce a balanced budget will require a thorough examination of other Government spending, and reductions in wasteful, low-priority, and unnecessary Federal programs.

Some are saying, "A constitutional amendment is too inflexible to respond to a downturn in the economy." Can those people tell me what we have been able to do to respond to this recession? Nothing, because we have a $400 billion deficit, so we are not able to help people who are unemployed, we are not able to address the growth issue or make more investments in our infrastructure because we do not have that ability as a result of the massive debt.

According to a recent New York Times article, economists now believe that our deficit and debt have contributed to our Nation's inability and inflexibility to rebound aggressively from this recession. Or look at the most recent GAO report, in response to Senator BRADLEY and his concern about the deficit and what we ought to do. I quote:

> Failure to reverse these trends in fiscal policy and the composition of Federal spending will doom future generations to a stagnating standard of living, damage U.S. competitiveness and influence in the world, and hamper our ability to address pressing national needs.

I would say to the Members that we are jeopardizing our preeminent position as a global economic power. I say that is utterly unacceptable. And in the final analysis that is the basic difference between the opponents and the proponents of this amendment.

□ 1450

For those Members who find this an acceptable legacy to bequest future generations, then oppose the balanced budget amendment, but for those who do not want to be part of that legacy and consign future generations to a lower standard of living, then join with us in supporting the Stenholm amendment.

Yes, Mr. Chairman, there is a deficit in this institution which exceeds even these astronomical dollar amounts. It is a deficit of will, responsibility, and of courage.

I, for one, want our children to live, work, and thrive in a nation free from the slavery and bondage of debt. Our generation owes that much to the next.

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just say briefly to the gentlewoman from Maine, we swear to uphold the Constitution now and to perform our duties now. And in my reading of the Constitution, it requires us now to make tough choices. I do not need a constitutional amendment to make tough choices. Maybe the gentlewoman does. I do not know.

Ms. SNOWE. If the gentleman will yield, I have made some tough choices here, Mr. Chairman.

Mr. PANETTA. I do not need a constitutional amendment to do that.

Ms. SNOWE. That is right, but we have now reached a point here where we have to make a decision of whether or not we are prepared to face the problems, and yes, it does require adhering to the Constitution if we should pass this, and the States then ratify it as a constitutional amendment, and then we have the enforcement mechanism. In our language that would require all of us to decide how that amendment will be implemented, and we will make the tough choices that the gentleman has been describing.

Mr. PANETTA. I trust the gentlewoman is true to her word that she has made tough choices, and I believe she has, and I do not believe she needs a constitutional amendment to make touch choices. And I believe that our constituents think that we do not need a constitutional amendment to make tough choices, because they elected us to come here and make tough choices, not wait for a constitutional amendment to tell us what to do.

Ms. SNOWE. The deficit is too much. At what point do we decide?

Mr. PANETTA. Mr. Chairman, I yield 11 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, first let me say that I share the frustration of those who are here today advocating the passage of this constitutional amendment. I would just point out that as far as I am concerned, deficit reduction is this Nation's No. 1 priority, and in my voting here in the last 10 years I have tried to vote in that manner. I share, like I say, the absolute exasperation of the gentleman from Texas [Mr. STENHOLM], and all of the others who are supporting this amendment. I have stood in this well on a number of occasions advocating freezes, tough budget medicine.

Recently I took the floor to express opposition to the change in the earnings test on Social Security. That passed the Senate by a voice vote and that would have cost the taxpayers $27 billion. The version that passed here overwhelmingly passed by a vote of 360 to 50.

So as far as I am concerned, this measure is not going to work. I have been tempted to vote for this, and I will share that with my colleagues, because frankly I am a little tired of trying to defend my vote in opposition to it, because this is so politically popular in an election year. So it is easy to vote for this, go home and say when asked what are you going to do to deal with the deficit, "Well, I voted for the

constitutional amendment requiring a balanced budget."

First let me say this constitutional amendment does not require a balanced budget. Let me say that again. This constitutional amendment does not require a balanced budget. It merely requires that three-fifths of the Congress would be required to deficit spend. A majority right now is required to deficit spend, of course. So when we talk about the three-fifths, we are talking about 261 votes in this body being needed to deficit spend.

Well, Mr. Chairman, I have gone back and done a little research, and guess what I found? I found that in 1991 every, every appropriation measure that this body passed was passed by more than 261 votes, not one had fewer than 261 votes. So then I went back to the previous year and I thought maybe we would find a number of appropriation bills that had passed with less than 261 votes. Guess what I found? I found that in 1990 only one appropriation bill, which was the D.C. appropriation bill, got less than 261 votes. And then we had the real tough deficit reduction package, the omnibus reconciliation bill that got 227 votes, and do you know why? Because it contained some revenues, and it contained some tough medicine on entitlements, so we could only find 227 brave souls to vote for that.

Now I went back to 1989 and in 1989 I found only that the Commerce, Justice, and State appropriations and the D.C. appropriation got less than 261 votes that this measure would require. That is why, my friends, I say this constitutional amendment will solve absolutely nothing when we talk about spending.

Now the second concern I have about this is the whole idea of enshrining in the Constitution of this great democracy minority government. The concept of majority rule in a democracy is fundamental, and I do not want to enshrine minority government in the Constitution.

My friends on this side of the aisle who aspire someday to be in the majority, I am amazed that you want to turn the future perhaps over the minority. That does not make a lot of sense to me at all.

The third concern I have, and I think is shared by many Americans when they reflect on this ill-conceived idea is the idea of turning tax-and-spend policy in this country over to the unelected judiciary. Think about it. Do we really want the Supreme Court of the United States to be setting tax-and-spend policy in the event that we have some kind of gridlock here? I certainly do not.

Let me clarify something about Social Security. The gentleman from Illinois and others have said that Social Security is not involved, somehow we are going to be able to solve this without touching Social Security.

I have read this constitutional amendment and I have confirmed this with the principal author. The fact is this constitutional amendment before us does include all outlays and all receipts. That means Social Security is on the table, and let there be no doubt about that.

Now granted, in future years a Congress may elect to take Social Security off the chopping block, and I will confess to my colleagues that as one Member I believe that Social Security is going to have to be a part of the final solution of this horrible deficit mess that we find ourselves in. And those who have studied this issue carefully I think would come to the same conclusion.

Let me also now talk about how we would game this amendment. For those who think this is so tough, let us talk about how you would just completely skirt it, and it would be very easy, my friends. At the end of the legislative year what would we do? We would have a measure down on the floor to fund Medicare or to fund Social Security or to fund the Veterans' Administration or to fund agriculture, or to fund transportation in this country, and the vote would be a very simple one, my friends, very simple.

Tonight, Mr. Chairman, we have a choice to make. We are either going to meet our obligation to the Social Security and Medicare recipients of this country or we are not, yes or no. And to do it we are going to have to deficit spend. Now what would happen? Three hundred and sixty votes would be up there in a heartbeat to pay Social Security and Medicare. And do you know what? You start the next year then with today's numbers with a $400 billion deficit if you paid for everything else except Social Security. And then you have this constitutional amendment hanging over your head saying to balance the budget.

Then you are into the game of finding three-fifths to raise the debt ceiling, three-fifths. And you know what I think would happen? When you find the 261st vote to get your three-fifths majority to raise the debt ceiling, that person is not going to be coming to the leadership saying please cut a program in my district for my vote. That Member will not be saying that. The Member will be saying, "You want my vote? This is the price," and up goes the spending.

So I contend that this amendment is going to do absolutely nothing to deal with our problem.

Now let us talk about a solution. I have two charts here that I want to refer to only for the benefit of historical perspective. A lot of people think this problem started 50 years ago, or 20 years ago.

□ 1500

I submit to you, my friends, this problem really started in 1980–81. At that time something happened. The Holy Grail that has been referred to earlier today must have been destroyed that year, and the reason I say that is because when you look at this chart you can see that in 1945 the debt of this country as a percent of gross national product was 111 percent, 111 percent. This institution, working with Presidents of both political parties, worked hard and responsibly to reduce this Nation's debt as a percentage of gross national product until 1980, when it was 26.8 percent, a tremendous achievement. Guess what happened. In 1980 and 1981, because of the changes, political changes, in this town, as you can see, the trends have moved in the other direction until today the debt as a percent of gross national product is 52 percent. It has doubled nearly since 1980.

During that time, I went back and looked over Presidential vetoes on spending issues. Do you know what I found? I found that in 8 years President Reagan only vetoed one annual spending bill, and five supplemental spending bills.

Then I went back to see what President Bush has done. Do you know what I found? I found that he has not yet vetoed a major appropriation bill because of spending. He has vetoed them because of abortion.

I happen to believe very strongly in strong executive leadership, and I am not suggesting that this responsibility lies solely with the President of the United States. It does not. This Congress has passed the spending bills and, therefore, must share responsibility for the outcome. But I believe in strong executive leadership, and as far as I am concerned we are not going to solve this problem until we have a leadership in the White House that will send this Congress a balanced budget and accept responsibility for the aggregate spending level of the country. That is why I think part of the solution must be a constitutional amendment empowering the President to set the aggregate spending level for the country, and then the Congress can adjust the spending priorities within that limit.

The other part of this solution must, my friends, be the election of Members of this body who are committed to doing whatever is necessary to solve this most urgent problem facing the country.

For those who say that they can solve it without a dime in additional revenue, they are not telling you the truth. For those who say they can solve it without cutting entitlements including Social Security, they are not telling you the truth either.

I think it is time for us to be honest with the American people about the kinds of tough choices that we face.

As to this constitutional amendment, in conclusion, Mr. Chairman, let me just observe what the noted conservative columnist James J. Kilpatrick

had to say about this amendment last year, and I agree with it. He said:

This amendment is a paper tiger. It does not growl; it merely meows. The fearsome teeth are false teeth. The oratorical wind that blows from Capitol Hill brings the sound of clacking gums. Congress does not need a constitutional amendment to balance the Federal budget. What it needs, excuse the homely word, is guts. Backbone. Courage.

That is what we need. That is what a President and a Congress need. And then and only then are we going to solve this problem.

Mr. FISH. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I rise in support of a constitutional amendment to balance the budget. Since I have been in Congress, I have been constantly aware of our deficits. I voted against legislation that would expand the increasing budget deficits we face every year. Unfortunately, too often, my vote on the side of fiscal conservatism has been a vote with the minority of Members of Congress.

The Constitution provides the fundamental framework to guide the decisions of Congress and the President, and it is high time that we move in this direction. Opinion polls over the past decade have found that the overwhelming majority of Americans favor a balanced budget amendment as a means of controlling the size of the Federal Government. With a national debt of about $4 trillion, there is a desperate need for discipline at the national level. I believe the balanced budget amendment is a statement of principle and conviction that will promote this conviction that will promote this discipline and should have been implemented a long time ago. Without the constitutional amendment, Congress will never have the inclination nor the backbone to make the tough choices on how to restrict Government spending.

Mr. Chairman, I agree with the gentleman from Kansas that there are other better ways to accomplish this, but in 20 years in the Congress, I have never seen a Congress that was willing to make those tough choices. Sure, we can do it ourselves. We should do it ourselves. But in 20 years that I have been here, I have not seen this Congress willing to do it, and unless we are willing to do it, we have to find some support in the Constitution or elsewhere to make us do it.

There are no simple solutions to the Federal deficit problem. They are possible only if all branches of Government are willing to take responsibility for their actions. Such responsibility is a matter of trust for Government by demonstrating that we are spending taxpayer's money wisely and with accountability. We have here before us an opportunity to improve the integrity of our budget process. It is critical that we establish a fundamental commitment to the principle of a balanced budget if we are to succeed in reversing the deficit's long-term upward trend.

In the past 18 years, Congress has enacted the Congressional Budget and Impoundment Control Act of 1974, Gramm-Latta, Gramm-Rudman I, Gramm-Rudman II, and the 1990 Budget Enforcement Act. During this 18-year period, our national debt has climbed steadily in spite of these legislative efforts. The last time the Federal budget was in balance was in 1969. Since that year, deficit spending has added $2.8 trillion to America's national debt, accounting for nearly 90 percent of today's total debt. Since the 1930's dozens of proposals have called for laws or constitutional amendments that would require a balanced budget or limit the size or growth of the Federal budget or of the public debt. Over 30 such measures have been proposed in each of the past several Congresses. Proposed constitutional amendments to require a balanced budget have been considered on only four occasions in Congress. In 1990, the House came within seven votes of the two-thirds necessary to take this historic step. It was just not enough.

During the debate over the budget summit legislation of 1990, the argument was made that a tax increase was needed to cut the deficit. Instead of using the money obtained to reduce the debt, it was used for more spending, as many of us on the minority side of the aisle predicted.

I understand that there are weaknesses in this amendment. One of the problems with this amendment is that with a three-fifths vote, we can go into further debt. I understand that, and that is a real weakness here. But it is a strong step forward.

I wish we could go all the way, with, of course, some kind of loophole for extreme emergencies such as war or other things of that kind, but we do need to take this step now, as minor as it may be; although it may not solve all of our problems, it is a positive step to show the American people that we care, we want to do something about it, and we are determined, we are determined as a Congress that we are going to move toward a balanced budget, and we mean it now.

Although a lot of blame has been placed on the President for our deficit problem, the real truth is that it is Congress that initiates every single spending bill. The Congress has been controlled by one political party for 40 years. Now is the time to end this party's control.

I could not support the budget resolution approved earlier this year because once again, it does nothing to reduce the deficit or eliminate wasteful Government spending. Federal spending as a percentage of gross domestic product is expected to climb to more than 25 percent this year, its highest level since World War II. Taxpayers are facing $400 billion in annual deficits, nearly $300 billion in annual interest payments and a total of $4 trillion in national debt. If the debt burden continues, it will cripple the ability of future generations to make the necessary improvements in education, health care, housing, and other domestic needs that we hear so much about from this body of Congress.

Among my constituents in California, there is overwhelming support for a constitutional restraint on the ability of the Federal Government to continue to run up huge budget deficits. The Federal Government has run deficits over the past three decades. The interest on our nearly $4 trillion debt has become the single largest item in the Federal budget. This debt burden continues to slow down our economy and stifle our ability to make investments in the future. We must put an end to this budget crisis by putting a stop to the rampant growth in Federal spending. Every effort must be made to cut wasteful spending and reduce the deficit.

Even with a balanced budget amendment in place, we still have to make the tough choices to bring spending in line with revenues. Whenever Government spending is financed, resources are taken out of the productive sector of our economy and transferred to the Government. Federal borrowing certainly imposes economic costs, forcing up interest rates and soaking up credit that could have been used to finance expansion of the Nation's capital stock. But taxes, too, impose economic costs, such as reducing incentives to work, save, and invest, thereby lowering economic growth and discouraging job creation. According to Dr. Alice Rivlin, former Director of the Congressional Budget Office:

If Americans are to live better in the future, they need to save more and channel those savings into productivity-enhancing investment. If, instead, they continue to use their relatively low private savings to finance ongoing expenses of government, they are likely to get low investment, stagnant productivity growth, continued trade deficits and growing obligations to send interest, dividends and profits overseas.

As long as deficits continue to grow untethered by Congress, interest payments will consume every growing percentage of future budgets, a burden that will be unfortunately, borne by tomorrow's taxpayers—who are our grandchildren of today. Every dollar of deficit spending places a financial burden upon future generations.

Thomas Jefferson said of deficit spending:

The question of whether one generation has the right to bind another by the deficit it imposes, is a question of such consequence as to place it among the most fundamental principles of government.

Unless action is taken now, Federal debt and out of control deficits will

continue to cripple our economy and mortgage our children's future. We must adhere to the will of the American people and put into place a constitutionally mandated balanced budget.

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise in support of the balanced budget amendment.

I originally cosponsored the amendment because I believe our burgeoning budget remains the single most important issue facing Congress. Given the failure of the last 12 years, passage of a balanced budget amendment would be an important step toward ending the present era of fiscal irresponsibility.

Since coming to Congress in 1987, I have been a strong advocate of reforming our budget process and reducing wasteful Federal spending. I supported, and voted for, the Stenholm amendment 2 years ago. I believed then, and I believe now, that passage of the amendment would bring some common sense into our system of government—the same type of common sense that every American family must utilize when they pay their bills every month.

Interest payments on the Federal debt are now the third largest expenditure in the entire Federal budget, and will reach $214 billion this year alone. That's $214 billion we are not spending on education, or infrastructure or investing in our future.

Having said this, I have strong concerns over how the amendment is drafted. Specifically, I am concerned that there is no distinction made between operating deficits and capital financing requirements. In other words, investment debt is treated the same as consumption debt. This encourages short-term thinking, and skews fiscal decisionmaking.

This is not a new issue. The General Accounting Office, in a 1989 report, proposed an alternative presentation to the unified budget which more accurately reflects these accounting realities. Basically, the proposed capital budget would separate disbursements for physical capital and credit flows from the operating budget. Aggregate totals of the capital and operating budgets would be provided, but the distinctions between the two uses of funds would be set out in all summary presentations.

The bottom line, is that this kind of distinction encourages cost-effective investment to meet longer term needs, and avoids the economic pitfalls of short-term budgeting. I am concerned that the amendment as drafted will have the effect of squeezing legitimate investment spending, particularly after 12 years of consumption and neglect.

Nevertheless, I support the resolution because I believe we are better off with the amendment than without it. There are certain fundamental problems with the current spending patterns that desperately need to be addressed. Furthermore, the Stenholm resolution would eliminate a lot of the budget chicanery practiced by both the administration and the Congress by counting all items on- and off-budget, and by penalizing unrealistic budget assumptions.

In conclusion, let me just say that I am understanding of the criticisms of the balanced budget amendment. However, the Federal budget deficit is simply out of control, and there is no end in sight. For 12 years we have had nothing but fiscal gridlock. If a political solution to this problem cannot be achieved, we need to seek alternate solutions before this country is completely bankrupted.

In his inaugural address of 1801, Thomas Jefferson stated that:

> The honest payment of our debts, I deem (one of the) essential principles of our Government and consequently (one) which ought to shape its administration.

These words were never truer than today. I urge my colleagues to support the balanced budget amendment.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, I have to say I was not sure this day would ever come. As one who has always supported the balanced budget amendment, indeed each of the Members representing my district for the last 40 years—Armistead Selden, Walter Flowers, and RICHARD SHELBY—have supported it, I was not sure I would serve long enough in the House to see this matter brought to the floor and voted on.

I am gratified that today we see Members from both sides of the aisle, the joint leadership, and even this frankly spendthrift, if not bankrupt administration have now seen the need for fiscal discipline which can apparently only be imposed by amending our Constitution in this fashion.

I understand that many will say that if Congress and the President wanted it, we would have a balanced budget today, amendment or no. This may be true, but it is also irrelevent.

In every case it is true that if people invariably acted correctly, there would be no need for laws or constitutions to compel or restrain action. The world in which we live is far from perfect and we who serve in Government accurately reflect that fact. Thus we have need of laws and constitutions.

I understand that some economists oppose this measure. While I appreciate their attempts at a balanced prespective, I am also reminded that economics is not called the dismal science for nothing. Obviously if they knew as much as they would have us believe, we would not have the economic and financial problems which necessitate this measure.

Even supporters of the amendment question how it will be made to work, how it can be enforced. I would suggest that my home State, Alabama offers a model, one interestingly enough suggested by the august Brookings Institute when my State sought its advice on reorganizing State finances.

We made it a criminal offense, punishable by fine and imprisonment for a State official—

> To draw any warrant or other order for the payments of money * * * unless there is in the hand of the treasurer money appropriated and available for full payment of the same . . . any person violating any of the provisions of this amendment shall, on conviction, be punished by a fine of not exceeding $5,000, or by imprisonment in the penitentiary for not more than 2 years, one or both and shall also be grounds for impeachment.

In conclusion, I urge all of my colleagues to join in support of this measure, recognizing that it will be but the first step on the long road back to fiscal responsibility. I also ask that those of the American public, which says it overwhelmingly supports this measure, do not think this process will be easy or painless. Sacrifices will be felt in every home.

Do not be fooled by those who say we can easily balance this budget just by cutting waste and fraud, or cutting welfare and foreign aid. If the solutions were easy and painless they would have been implemented long ago.

We have a great country, we have a strong basic economy, and we need only show the will and commitment to solve this problem, to show that we can rise to the challenge—that we can leave to our children and grandchildren a heritage of freedom and responsibility, not one of debt and servitude.

□ 1510

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, rarely do we get a chance to see something that is bad constitutional law, bad economics, and bad politics wrapped into a series of proposals.

The Constitution that the Founders gave us was the architecture for our Government and its amendments provide and enumerate the rights and responsibilities and the privileges of our citizens. For 200 years our predecessors here in the House and in the other body have been loathe to amend the Constitution. They asked themselves the question, "Is there no other way to accomplish the goal that we seek? Is the national emergency so great that only the amending of the Constitution will solve that problem?"

We face a great emergency with this debt, but the remedy is not a constitutional amendment, because all the tools to solve the problem of the debt we currently have. What we lack is the requisite political will.

Why is this bad constitutional law? Because it elevates to a position of constitutional privilege the idea of three-fifths rule. Since we were children in grade school, the idea of majority rule has been engrafted on all of us. The idea of majority rule recognizes that it provides for a consensus to achieve a majority.

This backhanded attempt to deal with majority rule undermines one of

the most fundamental principles of American Government. It will provide for a willful minority to dictate to the wishes of a majority.

The waiver authority embodied in the amendments is especially ludicrous. If by theory we need a constitutional amendment to balance the budget, we raise it to a level of immutability by making it an amendment to the Constitution. All the other amendments, speech, freedom of the press, the ending of slavery, cannot be waived by a 60-percent majority. If it is so important that it needs to be enshrined in the Constitution, then do not waive it as a principle.

Economically speaking, a balanced budget is not a goal of a national government. The goal of a national government in terms of economy would be full employment with stable prices. That may or may not be achieved by the establishment of balance between outlays and revenues.

Indeed, since we are not here now repealing the business cycle, the reality would be during a period of recession that we may want to deficit spend in order to increase aggregate demand. This amendment would prohibit this. This amendment would force us to continue the legacy of Herbert Hoover who wanted to see the budgets of the United States balanced in the middle of a recession. It is preposterous. It attempts to repeal the most fundamental laws of Keynesian economics.

Finally, it is bad politics.

Mr. Chairman and my colleagues, will any of you stand up who are here part of the 284 prepared to change the notch that will cost $325 billion over the next 30 years, or those of you who would like to eliminate the Social Security earnings test for $27 billion? Surely you cannot be the same people who want to balance the budget and yet spend these hundreds of billions of dollars. That would be hypocrisy.

Do you know why Ross Perot does so well, my friends? Because he speaks clearly and plainly to the American people. He does not say to the American people, "I want to balance the budget, but I really would like to give you the notch. I would really like to give you the earnings test. I really would like to do these things."

When you speak out of both sides of your mouth, my colleagues, you breed disrespect in the body politic and you undermine this great institution.

Please reject the sophistry of a balanced budget amendment. Please embrace the reality that the only way to achieve a balanced budget when it is necessary is by difficult choices.

Mr. FISH. Mr. Chairman, I yield 3 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in strong support of a balanced budget amendment to the Constitution. I believe such an amendment is absolutely necessary in stiffening the spine of Congress to make those difficult decisions we have been ducking for years, and forcing elected leaders to carry through on a plan to balance the Federal budget.

Back in 1984 when I was first elected to Congress, the citizens of the Third District of the State of Kansas sent me to Washington with a clear mandate—eliminate the deficit and balance the budget. Today, this issue remains the No. 1 priority among my constituents. Despite adopting several laws stating there should be a balanced budget, passing Gramm-Rudman-Hollings I, Gramm-Rudman-Hollings II, and the 1990 Budget Act, we have a record deficit of $400 billion this fiscal year, and are farther from balancing the budget than we have ever been. The national debt that we have been building for the past 32 years is now nearly $4 trillion, and climbing fast. We have been digging a hole that is now so deep that the very idea of balancing the Federal budget presents an insurmountable task to some. However, if we do not take action now, if we listen to those who say that we need to balance the budget, but not today, we may never be able to get out of that hole. Tragically, our children and our grandchildren—the entire future of our Nation—will suffer the dire consequences of such lack of will.

Mr. Chairman, to those who oppose a constitutional amendment requiring a balanced budget because they claim such action does not make those tough choices, I must disagree. While the measures we will be voting on do not include specific spending reductions or revenue increases, a constitutional amendment eliminates the escape hatches that have been built into every deficit reduction plan we have ever passed. A simple waiver of the Budget Act, which Congress has done more than 500 times since 1978, has provided Congress the ability to ignore the statute that says we shall not deficit spend. When an amendment is added to the Constitution that requires a balanced budget, Congress and the President's proverbial feet will be held to the fire.

There is no doubt that the decisions and choices Congress will have to make to balance the budget will be tough. As I listen to the debate, I am reminded of the old adage about the man who wants to go to Heaven, but does not want to do what he must to get there. In the past few weeks I have been deluged with calls and letters from various groups who claim they support a balanced budget, but vehemently oppose a constitutional amendment, because our Nation is in crisis. They say we cannot balance the budget now because many important programs would suffer reductions, programs that must be fully funded to avert national disaster. While I support the purpose and existence of many of these programs, I believe we must look at the big picture. Congress is always going to balance the budget tomorrow, pushing the deadline for reducing the deficit out a few more years, and then another few more years, with a balanced budget just around the corner. Mr. Chairman, such thinking is how we got into this mess in the first place.

Eliminating the deficit and balancing the Federal budget will require Members to make some politically unpopular decisions. Some of our constituents have been concerned that a balanced budget amendment will hurt Social Security. I say that one of the biggest threats to the Social Security system is the deficit and the debt and that is because we are investing Social Security reserves in U.S. bonds. Now, I do not believe anything dishonest or evil is happening with the Social Security reserves. They are being invested in U.S. bonds so they will earn interest, and all of us would want such a large sum to earn interest. However, because of the deficit and the debt, I am not completely comfortable about the reserves. It is appropriate to invest the reserves in U.S. bonds, but only if there is money available to redeem those bonds when we need the money. And this means we simply must get our financial house in order, eliminate the deficit, and reduce the debt.

Everybody wants a balanced budget, but only if it is balanced on the back of the other guy's program. Mr. Chairman, it is time for Members to fess up to their constituents and tell them there is no other guy's program. We are all in this together, and everyone will feel the pinch. However, I believe the American people are willing to make those kinds of sacrifices to ensure their children and grandchildren inherit the kind of country we would all like to leave them—not a future shackled by the debts of the past.

Mr. Chairman, I would like to extend a sincere thank you to the Members who have labored so diligently in bringing a constitutionally balanced budget amendment to the floor, particularly Mr. STENHOLM, Ms. SNOWE, and Mr. SMITH of Oregon, who have kept the torch burning on this vital issue. As I voted in 1990, I will vote today for a balanced budget amendment to the Constitution, hopeful that we have those additional few votes needed to prevail. Furthermore, to the distinguished chairman and members of the Budget Committee, this Member pledges her support in adopting those tough policies to carry through on the promise we are making today.

□ 1520

Mr. SMITH of Oregon. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. WYLIE], who 25 years ago, introduced a balanced budget amendment to the Constitution.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from Texas [Mr. STENHOLM] and the gentleman from Oregon [Mr. SMITH] for their tenacity and hard work and for this opportunity to speak about the most serious problem facing our Nation today.

Of course, I rise in support of the resolution calling for a constitutional amendment to balance the budget, and, yes, Mr. SMITH, I am proud to say that I have introduced a resolution similar to the Stenholm-Smith resolution in every Congress since I came here to serve in 1967.

As a member of the State Legislature of Ohio, I was familiar with a constitutional amendment to balance the budget, and it worked in the State of Ohio. Make no mistake about it, a constitutional amendment to balance the budget is popular with people all across the Nation. In my January questionnaire, 75 percent of all those who responded favored an amendment to the Constitution that would require that the Federal budget be balanced except in time of war or economic necessity.

I do not believe that the constituents of my district are much different than the constituents of the districts of other Members of this body.

I repeat for emphasis, the most serious problem facing our country today is the huge budget deficit and the size of the public debt. As has been stated earlier, the interest on the national debt is expected to total $316 billion next year, or $7,005 for every family of four in the United States.

The sum of $316 billion is more than the total revenues for the Federal Government in the year 1976, just 15 years ago. In little more than a decade, we have passed five statutes intended to create a balanced budget or enforce some budgetary discipline. We tried Gramm/Rudman, but it was not allowed to work. We had a budget summit agreement, and it too has not worked. I think the time has come for us to do something different and drastic about the deficit and to me the only hope is a constitutional amendment.

Financing the Federal debt has, in my judgment, caused the recent stagnant economic growth and has done more harm to our economy than any other single factor. Senior citizen groups have organized a postcard campaign saying a balanced budget amendment would endanger their benefits. I respectfully disagree because I know that a stable economy, having a dollar that retains its value, would help the senior citizens. As interest payments on the debt continue to crowd out private sector and other Federal spending, it most assuredly adversely affects Social Security benefits. I think to pass the balanced budget amendment is to preserve and protect the Social Security system.

In addition, budget deficits certainly adversely affect our young people. If we do not pass this balanced-budget amendment to balance the budget, I think it means Congress will still be unable to come to grips with the massive budget deficits.

That will impact adversely on the standard of living of our children and our children's children.

I think a balanced budget amendment is looking to a brighter future economic amendment. Forty-nine States have balanced budget amendments, and not one State has ever suggested repealing the State constitutional amendments.

Since I have served in Congress, a balanced budget amendment has come up for a vote in the House and Senate four times. In 1982, the Senate passed a balanced budget amendment on a vote of 69 to 31. In the House, however, it failed to receive the necessary two-thirds' majority.

In 1986, when the amendment came up again in the other Chamber it failed to achieve the two-thirds majority required by one vote. The House voted on this amendment in 1990 when it fell only seven votes short of the necessary two-thirds majority. The fact that we have not been able to pass a balanced budget amendment has been a great disappointment to me. I would like to be able to say that the last Congress in which I served will always be known as the one which passed a balanced budget amendment to the Constitution which was quickly ratified by the 38 States, as I know it will be if presented to them.

My "yes" vote will be one of the easiest I have ever cast.

The CHAIRMAN. Is the Chair's understanding correct that the gentleman from Kansas, [Mr. SLATTERY] is controlling the time as designee for the gentleman from Texas [Mr. BROOKS]?

Mr. SLATTERY. This gentleman does, Mr. Chairman.

Mr. Chairman, I yield 6 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today to express my commitment to vote for the spending cuts and revenues necessary to reduce the national debt. At the same time, I feel compelled to discuss my deep concerns about amending the Constitution in an effort to obtain a balanced budget.

The supporters of this amendment remind me of rival gangs steadily escalating their weapons. Gramm-Rudman, Gramm-Rudman II, budget summits, constitutional amendments, supermajority votes.

The frustration of the supporters of these proposals is real, and we all share it. They argue that we have tried everything else, and nothing has worked. But they are wrong.

Through all the procedural fixes, the deficits rose, and the national debt soared out of sight; $4 trillion now, and, under the budget submitted by the President this year, $6 trillion 5 years from now.

The supporters of this amendment say we've tried everything, and now we must amend the Constitution of the United States. They say all the other proposals, legislative rather than constitutional, have failed. Despite all the changes we've enacted in the budget process, the red ink flows deeper and deeper.

The proposed constitutional amendments spring from the notion that we have the target in our sights and simply need new weapons to bring it under control.

The fact is that we don't need any new weapons. We haven't tried everything. We have not tried the one thing that is sure to work. We need to get in close and slug it out—working on spending cuts and revenues needed to reduce the deficit.

That's our challenge. Instead of choosing new weapons, we need the courage to do the work it takes to reduce the deficit.

This amendment won't solve the deficit problem, because it doesn't deal with the deficit problem. The Constitution of the United States did not cause the deficit. Nothing in the Constitution prevents us from cutting spending, or getting entitlements under control, or bringing revenues and spending into balance.

It is the performance on the budget, not the process, that is the problem. During the debate on the defense authorization bill last week, the gentleman from Massachusetts [Mr. FRANK] made this point. It is easy to cut the budget in general, but it does no good. It is hard to cut the budget in specific, but that is the way to a balanced budget.

None of the speeches on this floor today, none of the outrage we express over a $4 trillion debt and $400 billion deficits, none of the constitutional amendments, will balance the budget. We can't balance the budget when we refuse to reduce military spending. We can't balance the budget until we get serious about cost controls in health care.

Mr. Chairman, the Constitution's not out of balance, the budget is. The President and the Congress need to exercise the powers and responsibilities provided under the Constitution, and not hide behind fake constitutional fixes to our country's fiscal problems.

A balanced budget amendment poses a significant threat to our system of government established by the Constitution as well as the strength of our economy. At the same time, a balanced budget amendment will provide another gimmick and excuse for us to avoid dealing with the budget deficit.

If Congress and the President fail to agree on a balanced budget, it could fall upon the courts to develop a balanced budget. As Robert Bork has argued:

The results of such an amendment would be hundreds, if not thousands, of lawsuits around the country * * *. By the time the Supreme Court straightened the whole matter out the budget in question would be at least four years out of date and lawsuits involving the next three fiscal years would be climbing toward the Supreme Court.

Just a few months ago my home State of Maryland went through an extended battle over how to balance its budget in the face of a deficit caused by the recession. They cut programs, and they raised taxes. Their job was made even more difficult by Federal mandates. The balanced budget amendment, which we are considering here today, will almost certainly lead to additional Federal mandates.

The people of this Nation have little confidence that a constitutional amendment will work to bring about a balanced budget. A recent survey of the citizens of the Third Congressional District of Maryland found that 60 percent of them believe a constitutional amendment will not succeed in balancing the budget. We'll just invent new ways of taking expenditures off budget or counting receipts twice or other curative scorekeeping to avoid dealing with the deficit.

In conclusion, Mr. Chairman, we do not need more budget and accounting gimmicks. I agree with the Baltimore Sun in calling the balanced budget amendment a cynical, hypocritical gesture. What we need is Presidential leadership and congressional courage.

□ 1530

Mr. FISH. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I rise with some trepidation in support of the constitutional amendment for a balanced budget, trepidation because I do share the concerns that have been expressed here this afternoon about the risks, substantial risks, that we may be encountering if this amendment is adopted. But I think, Mr. Chairman, that the risk of continuing on the course that we have been on for far too long is a far greater risk because it really threatens the livelihoods of our children. It puts us deeper into debt. So, I think that this is a risk we cannot afford not to take.

But one of the risks, Mr. Chairman, that we have to face and we are going to have to deal with after passage of the balanced budget amendment is how we go about reducing the deficit without doing irreparable harm and damage to the economy and to the future of the country. Mr. Chairman, I would suggest that one way to reduce that risk, or at least one of the risks that may be inherent in the adoption of this amendment, would be to adopt capital budgeting. If we are to have a balanced budget amendment, and I hope that we do have a balanced budget amendment, then I would hope that we will also have enough sense to do what the States who now live with balanced budgets in their deliberations have done, which is to adopt a capital budget.

Mr. Chairman, under our present budgeting process we have an exclusive focus on a single cash based total, and that leads to really unsound, in my view, deficit reduction strategies. States, on the other hand, distinguish between spending for capital investments and spending for operating expenses, and they focus upon the latter in their balanced budget deliberations. Under the present Federal budget structure, however, it is very difficult, if not impossible, for the President and the Congress to apply deficit reduction efforts in a way that balances needs for operating expenses with needs for capital investments.

So, Mr. Chairman, this single number focus of Federal deficit reduction efforts is based upon a highly questionable premise that all outlays are the same, whether for capital investments or for operating expenses. This is clearly not the case. Capital outlays, whether they are for buildings or for loans, produce future streams of benefits to the Government or to the economy. The benefits may be cash flows, as in the payback of loans, or user fees. They may be facilities to carry out Government operations or other economy returns.

The point is that there is a substantial difference between operating expenses and capital expenditures, and failure to recognize the critical distinction between capital investments and operating expenses complicates economic policy making extraordinarily. Officials cannot readily discuss and set public policy.

Second, under the current, cash-based budget, there is a budget bias against capital programs, which could lead to uneconomical decisions. Under present budget scorekeeping rules, a $10-million outlay to construct a building—a capital investment—in a given year contributes to the year's deficit the same as a $10 million outlay for vehicle or airplane fuel costs—an operating expense. This scorekeeping practice front-end loads the costs shown in the budget for the acquisition, since the project will have sizable startup cash payments. Such a capital project is also at a disadvantage during budget deliberations when competing with an alternative means of acquiring the use of a building that would have lower front-end costs, such as leasing, but which has significantly higher long-term costs. This could lead decisionmakers to select the leasing option even though it would entail larger, long-term costs without the sizable benefit of eventual ownership. In a sense, it requires a capital asset to have a 1-year payback to be able to compete equally with current operating programs—a clear manifestation of the budget's focus on short-term thinking.

It is also obvious that scoring capital expenditures over the useful life of the capital improvement rather than in the year authorized will greatly ease the task of realizing a balanced budget. So I support the balanced budget amendment and also urge my colleagues to move toward a capital budget after its amendment is adopted.

The CHAIRMAN. The gentleman from Wisconsin [Mr. MOODY] is recognized to control the time.

Mr. MOODY. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Chairman, in the 200 plus year history of our Constitution, it has been amended 27 times. Today, I rise in support of amending it for a 28th time, to balance our Federal budget by adopting the Stenholm amendment.

I proposed and cosponsored legislation similar to this since I was first elected to Congress. It made good sense then and it makes good sense now.

My proposal would make our country live within its means, as every family must. Even stronger than the Stenholm amendment, my proposal links any increase in the budget to a similar increase in our economic growth.

We have all heard balancing the budget will not be easy. But hardworking Americans face the challenge of balancing their own budget every day. It's past time the President and Congress do the same.

The Federal Government must eliminate its deficit spending. The red ink spending levels must stop. We must ensure that our children and our children's children are not saddled with a towering Federal debt.

I was pleased to be one of the first to sign the discharge petition to push this to a vote and I urge my colleagues to support this amendment.

There are some today who say we should not do this. But go home, look your child and your grandchild in the eye, and explain your vote to them. Let us vote for this amendment for a brighter future for America.

Mr. MOODY. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I thank the gentleman from Wisconsin [Mr. MOODY] for yielding this time to me.

Mr. Chairman, we need a balanced budget amendment because we have tried every other approach to resuscitating our economy that our creative minds could conjure up—but the deficit and the debt have grown larger.

We have tried the huge tax cuts of the early Reagan years. We have tried Gramm-Rudman-Hollings several times. We have tried budget summits and bipartisan budgets agreements.

What have we achieved? An enormous and growing deficit, the disdain of the general public, and a permanently weakened economy.

We are all addicted—Government and people. The Congress has demonstrated time and time again that we will spend our children's money freely for short-term comfort—whether it be political or economic. It is always easier to hand out benefits than to say no.

The record of Presidential leadership is even worse. The President is the only individual who can propose a budget to Congress. But for 12 years the Nation has been subjected to Congress-bashing rhetoric dished out by Presidents who have never come close to proposing even one balanced budget.

The last two Presidents have abdicated their responsibility to lead, squandering the only pulpit in the country with the power and prestige to build a national consensus. All for political gain. Presidential hypocrisy on the deficit crisis is staggering—and so is the long-range damage to the country.

Some critics of this legislation charge that the idea is sound but that this is the wrong time to cut spending drastically. Whether they are right or wrong, we have proven that there is no good time to take this medicine.

We have not balanced the budget in bad times. We have not balanced the budget in good times. We have not balanced the budget at any time.

As some opponents have observed, we already have the ability to reduce the deficit. They are right, but we have not done it. Why should the American people believe that we have suddenly acquired the will to balance it now without being forced by the Constitution to do so?

The Nation is at an economic crossroads, and neither fork looks smooth. But our choice is not difficult because we have already been down one of the paths—and it is a dead end of growing deficits, growing debt, growing national rage at our political institutions, and shrinking resources to meet the urgent needs of our citizens.

Let us take a new path. Let us take the balanced budget road and see where it leads.

In the short run, it will surely lead to more painful choices. In the long run, though, it will lead to a sound economic foundation that will once again unleash the power and energy of the American people.

□ 1540

Mr. GEPHARDT. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, the folks that brought you the ice cream sundae diet now bring you a constitutional amendment to solve all of our woes. It will be painless, it will be quick. We will reinvigorate our economy, if we can only change the Constitution.

Well, let us take a look at what this will bring us. It will bring us Government gridlock that will make the last 4 years look like a swift operating machine. It will now take not 51 percent of the Congress to run this institution, it is going to take 60 percent. That minority that is needed to get to 60 percent will extract its toll.

Every time you come to the floor with a budget, you are going to have to find 60 percent of the Members of the House of Representatives to be able to pass it. It is hard enough to govern when you want 51 percent. It is hard enough to govern when the issues are there and framed with the options of a government in front of you.

But that is not what we are going to do. We are going to end up with a system that makes the multiparty governments of Europe look like swift operating machines. We are going to take the strongest democracy in the world and create a crippling economic program in the Constitution.

Now, it seems to me there are times when you need debt to expand, and there are times when you need to get rid of debt to make sure that it does not hobble your economic future. But the one thing that is clear is that you do not want to put this in the Constitution.

It is interesting, my colleague, the gentlewoman from Connecticut [Mrs. KENNELLY], gave Members a nonconstitutional option that would require the same number of votes in the House to be able to get a balanced budget. But, no, that was not good enough, because this week's ice cream sundae diet says we have got to do it in the Constitution. That unless we lock in with the freedom of speech, the separation of church and State, and the other great theories that were placed by our Founding Fathers and later amendments, unless we put it in there in the Constitution, it is not good enough.

Well, Mr. Chairman, we are tinkering with the most important country in the world. If there is gridlock in some of the countries in Europe and Asia, if governments fall on a regular basis because of their inability to come together with an economic program across the face of this Earth, it is irrelevant. It is not relevant to what happens in most instances, as it is when we do that to the United States of America.

The Japanese have a debt ratio that is greater than ours. If you take a look and put this program on the Japanese or the Americans or any other prosperous economy, you can end up destroying the very economic activity that has given this great democracy strength.

It is to say to a young family beginning their lives that they have to buy their home for cash. It is to say to a business that is about to expand into a new market that they cannot borrow.

Now, is our deficit too high? Absolutely right. And let us take a look. Let us go back and take a look at those that gave you Gramm-Latta, those that gave you supply-side economics.

Mr. Chairman, I can remember the debate on supply-side economics. The President told us it was going to balance the budget by 1982 or 1983 at the latest. If we were only to follow this new and interesting economic program, it would solve all of our woes. We could expand defense spending and cut taxes. It would invigorate the economy. The deficit would be gone.

Well, let us see what it gave us. It gave us a change from being the largest creditor nation to the largest debtor nation. We created less jobs in the 1980's than we did in the 1970's.

Mr. Chairman, there was a commercial on TV a couple of years ago with an elderly gentleman getting up and saying, "We did it the old-fashioned way; we earned it."

There is no excuse. There is no option other than the old-fashioned way, a President who is willing to come down and fight for programs that will bring this country in the right direction, and a Congress that works with him.

No constitutional amendment, no set of laws, will change that for us. But what it can do is make it more difficult for even a President who has a program to make it work.

Mr. Chairman, any Members who have spent any time here, think of the times we pass bills by 218 votes, and then think of the need to get 10 percent, 45 more votes, for the passage of those bills. It will be that much more difficult to have an economy and a program pass this Congress.

Mr. FISH. Mr. Chairman, I yield 3½ minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we are here today to debate the issue of the balanced budget amendment. As we do that, I think it is important to reflect on the big picture in question: Why do we need this so badly? Why do we need to have an amendment to the Constitution of the United States to force this issue?

I think it is really quite simple. There is a book out now by a fellow named Larry Burkett called the Coming Economic Earthquake.

Now, I do not subscribe to everything in his book nor agree with everything he says, but I think his analogy is right on the money. He is talking about our economy and the debt that we have out there, this $4 trillion overhang, and the interest payments we have on that debt.

He said nobody can say for sure when an earthquake is going to occur in California along the fault line. You

cannot be sure when the really big one is going to come, like in San Francisco, but we all know that it is going to happen.

Well, I would say to my colleagues that that is the same thing, and he is quite right in making the analogy that we are dealing with when we are dealing with this debt overhang and the interest payments we are building up on that with the accumulated deficits of $300 billion and $400 billion a year. We do not know when we are going to have an economic calamity, we do not know when it is going to fall, whether it is next year or 10 years from now, but we all know we cannot continue to accumulate these deficits and this huge debt and have this huge interest payment without having a calamity at some point. We all know we need a device to force this body and the other body to get together and set the priorities that have to be set to stop this deficit spending.

The interest payments on the U.S. debt this coming fiscal year will be almost, and will maybe exceed, the amount of the largest items in the budget. It will be as great or almost as great as the entire amount spent on defense, the interest payment alone. It will be as great or almost as great as the entire amount spent on Social Security. If it is not this coming fiscal year, surely the next fiscal year, at the rate we are going, it will be greater than any single item in the budget.

□ 1550

And within about 7 or 8 years, surely by the end of the decade, at the rate we are going the projections by good experts show that the interest payments on the Federal debt will exceed the entire amount of the Federal budget projected for fiscal year 1993 or about $1.2 trillion. And then we surely will have that earthquake at some point close to that time because we cannot sell the bonds and the bills and the notes. We need the device of a constitutional amendment to force this body to act.

There are those who are going to argue as to whether we ought to have supermajorities over the question of raising taxes to get there to balance the budget, and I certainly favor forcing that issue, if we can. I do not favor raising taxes to do it.

There are those, and I will support the Kyl amendment, who think we ought to have provisions that force us to look at the spending side in certain ways and have a line-item veto. I will support that, but I do not know if we have the votes out there for those.

I do believe we have a chance to pass the Stenholm amendment, the Smith and Snowe amendments, and I strongly support that amendment and I urge my colleagues to vote for that amendment, when the time comes.

We need the device to force this issue. We should not be afraid to face it. We must set the priorities. It will not do the job. We still have to come back and get together and balance the budget and make the decisions between cutting this program or not that program or eliminating this program or, as some argue, we ought to increase taxes, we will have to face that.

I do not favor certain procedures and methods and so forth that my colleagues might on the other side of the aisle. The point is, the constitutional amendment does not decide that. We will debate that another day. But we need the amendment to force the issue.

Mr. SMITH of Oregon. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], a longtime supporter of the balanced budget amendment to the Constitution.

Mr. GUNDERSON. Mr. Chairman, the gentleman from Oregon is exactly correct. When I first stood in this well as a Member of Congress, the very first piece of legislation I ever cosponsored was the balanced budget amendment, because I wanted history to know that we had a problem.

I regret to tell my colleagues that 10 years later that problem has gotten only a lot worse. Today, we are looking at a $204 billion payment on interest on the debt because this Congress does not have the discipline to live within its means. The problem we have down here in this well is that every Member says we cannot do this because think what is going to happen.

I would like to spend just a second telling my colleagues what we cannot do because we have done this, because we do not have the discipline to live within our means.

Today, we will spend 21 percent of the interest, 21 percent of the budget on interest on the national debt. I have been told if we get over 25 percent, we can never recover economically and pay that off.

Let us talk about this in terms of some programs. Let us talk about social programs. The amount we paid in 1991 on interest on the national debt, two times the amount of money we spent for all of the Medicare programs in this country, for health care for the senior citizens. They are upset about a balanced budget. They ought to be upset about what we are doing around here because we do not have any money to spend on their programs because we spend it all on interest.

Four times what we spend on Medicaid, 13 times what we spend on SSI, 24 times what we spend on NIH, we spend on interest annually on the national debt. Thirty-five times what we spent on chapter 1 programs for educationally disadvantaged, 36 times as much money is spent annually on interest on the national debt as we spend on all Pell grants with which we send students to education at our higher education institutions.

My colleagues, we cannot afford not to pass the balanced budget for the future of our social programs.

Mr. GEPHARDT. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Chairman, all day I have sat here in the Chamber or watched this debate on television in my office. I wonder whether we all know that what we are really debating is a fundamental change in the Constitution of the United States.

This is not a political election. This is not an issue that should be taken lightly, and I do not wish to suggest that many of those Members who argue for this amendment today are not of the most sincere nature, because I believe they are.

If this amendment passes today, I would ask the 290 Members who have to vote for it to join me in introducing a constitutional amendment tomorrow for quality education, for a clean environment, and for a guaranteed economic prosperity. Then when we pass that amendment, the Congress can adjourn and no longer affect and excite the American people and the media because we as a nation will have reached utopia.

What we are doing today is to fundamentally change the balance of power as framed by the drafters of the American Constitution. We are attempting to gain political will and leadership, and yes, guts. The price we are paying is the destabilization of the most magnificant constitutional document ever drafted by the minds of men.

We are doing it with political rhetoric, not recognizing that we, in talking about protecting the economic future of our children and grandchildren, are not worried about the political freedom and liberty of not only our children and grandchildren but the magnificent document that has led to the freedom of virtually the entire world over the last 40 years. With one economic swipe, one political expediency, we are going to cast a vote to say we can solve the problem by firing a silver bullet.

What I challenge my friends on the Republican side of the aisle and in my own caucus; if they can vote for this constitutional amendment, why do they not just take 30 or 60 days and bring back a balanced budget? We have had years to do that. We cannot do it. We cannot do it without either raising taxes or cutting expenditures. And to do either requires political will and political leadership that this Congress has not expressed, but most certainly, my friends on the Republican side, do not tell me that Mr. Reagan or Mr. Bush has reflected that leadership to this House or to the American people, not once. Not 1 year in the 7½ years that I have been here have we ever seen a balanced budget from either President Reagan or President Bush. The

only thing they are guaranteeing is that in their next term they will not have to submit a balanced budget because this amendment will not take effect for approximately 4 years.

If we do not have the political will in this country, as reflected in this institution and in the Presidency of the United States, to be balance the budget, then we should decide now to call a Constitutional Convention, because what we are saying is that the Founding Fathers failed. What we are concluding is that the separation of powers between the executive and the legislative is in gridlock, not working, and fundamentally flawed. And if it is, let us go to a parlimentary form of government.

Instead today and tomorrow many Members are going to cast a vote to change the fundamental rights guaranteed to the American people under the Constitution, and they are going to do it with the idea that they are going to save our democracy, instead of solving a financial and economic problem which is great, and which needs our attention, but is solvable.

This action will create a political crisis 4 or 5 years down the road, and the death of the most important instrument of democracy ever conceived by man.

I want to talk to a few Members in this Congress today because some Members have not decided how they are going to vote. I want to tell them something. I have only one daughter. I would prefer that she live in poverty but free, instead of living in wealth and be enslaved. And that may very easily be the fundamental decision we make here today. If we adopt this amendment, we will upset the balance of power the Founding Fathers set up in the original Convention, and the original Constitution, and it can never be brought back together again.

I would predict to my colleagues, that they would not want to be in Washington, DC, on October 1, 1997 or 1998, because if we delude ourselves that this amendment is going to create political will or political leadership, I think we miss the whole purpose of political life.

I ask those conscientious Members of the House who have not made a final and fatal decision, to consider it carefully so we can preserve the Constitution.

□ 1600

Mr. FISH. Mr. Speaker, I yield 30 minutes to the gentleman from Texas [Mr. BARTON], and I ask unanimous consent that he be allowed to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I rise in support of the Stenholm amendment. I also rise in support of the Barton amendment to the Stenholm amendment.

Mr. Speaker, I was somewhat surprised and somewhat disappointed to have heard the first speaker in this debate, the majority leader, frame the debate in the manner in which he did. The majority leader took great pains to blame Ronald Reagan for a whole host of ills—a man who, in my opinion, so ably served our country for 8 years.

There are some issues that come along that are so important that they in my opinion should go beyond and above politics. This is one of them.

This issue cries out for bipartisanship support. I was elected, along with the gentleman from Texas, in 1984. In 1984, I told my constituents, as I believe everyone else did who ran that year, that we had a very serious problem. It was called an unbalanced budget, and referred to as a deficit problem. That year our deficit was $185 billion, which represented 5 percent of the gross domestic product. We had a total debt of $1.3 trillion and we paid $111 billion in interest that year.

Today, in 1992, after the gentleman and I have served in this House for 8 years, disappointingly, our deficit is no longer $185 billion, it is $400 billion, which represents 6.8 percent of gross domestic product. We have a $3.1 trillion national debt, instead of a $1.3 trillion national debt, and we pay $199 billion a year interest on that debt.

Much has been said lately about family values in America.

Let me assure each of my colleagues that a balanced budget amendment is a family issue because it will have a profound effect on each of our children and grandchildren.

Each of my colleagues professes to care about families. Well, a family of four today owes more than $3,000 in interest alone on the debt.

A member of my staff will be a father very soon. His child, at the very moment it is born, will owe more than $12,000 as part of his or her share of the Federal debt.

And it is getting worse.

By the time my staffer's child reaches the fifth grade, it will owe more than $22,000.

Upon college graduation, his child will owe $41,000.

And when the child starts a family of his or her own, the first born will owe in the neighborhood of $80,000 if we stay on our current pace. And, Congress has done nothing to make me believe that it will curb its current spending policies without an amendment to the Constitution.

Is this the legacy we want to leave our sons and daughters, our grandsons and granddaughters? Do we want them to be burdened by exorbitant debt from the moment they are born?

It isn't just the future of our children which is threatened by our string of deficits.

Many opponents of a balanced budget amendment have used scare tactics against senior citizens, claiming the amendment would threaten senior citizens.

This is nothing but demagoguery and misrepresentation.

Those who are trying to prey on the fears of our senior citizens should be ashamed of themselves.

The integrity of the Social Security trust fund would not be threatened one bit by a balanced budget. I have worked as hard as anyone in the House to ensure benefits for older Americans and I can assure you that I would be the last to support this provision if I thought senior benefit programs would be negatively affected.

However, it will be threatened by mounting debt, which will continue to debase the currency and undermine the very foundation of our economy.

Let us do what needs to be done for our American families. Let us pass the balanced budget amendment.

I believe the Democrat majority has firm control of whether a meaningful constitutional amendment passes or fails. In 1990, they held such power, and the amendment failed by just seven votes.

Regrettably, the majority party will, in my opinion, hold the same power again.

However, I am hoping for a surprise. Just maybe the Speaker and majority leader won't have control of enough right-minded Democrats.

Mr. Speaker, Mr. Majority Leader, I hope your party will surprise me. More importantly, I hope you'll surprise the American people who pay in the neighborhood of $3,300 per family each year to defray the interest on the national debt.

I recently read a quote by Thomas Jefferson who envisioned congressional spending run amok: "I wish it were possible to obtain a single amendment to our Constitution * * * taking from our Federal Government the power of borrowing."

Maybe, you'll surprise Mr. Jefferson, too.

Mr. MOODY. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I will start with a quotation, since one of the gentlemen in the well before me invoked our forebears who wrote the Constitution. I would invoke the spirit of Thomas Jefferson in two letters.

> I wish it were possible to obtain a single amendment to our Constitution, I mean an additional article, taking from the Federal Government the power of borrowing.

Since the gentleman before me mentioned enslavement, Thomas Jefferson further said:

To preserve our independence, we must not let our rulers load us with perpetual debt. We must make our election between economy, liberty, profusion, servitude.

Here is perpetual debt. This is what we are creating, $1 billion a day of additional debt this year, $3.5 trillion of accumulated debt, interest payments, gross interest payments. We hear a lot about the net payments. What about the gross ones? We are paying ourselves a lot of interest, over $250 billion in interest payments this year. That is more than all of the discretionary programs of the Federal Government combined, once we back out the military. That is more than 12 or 14 times what we spend on all the education programs of the Federal Government in the United States of America. That is more than 14 times what we are spending on our crumbling infrastructure.

Where does that money go? It goes into the pockets of the wealthy, both wealthy Americans who need tax-exempt investments, and wealthy corporations, and wealthy foreign interests, who own a substantial portion of our debt. It is a special little tax exacted upon average American taxpayers, an incredible transfer of wealth to the most wealthy people in the world.

When I first came to Congress, when I ran for Congress, I opposed a balanced budget amendment. I said:

That is a gimmick. We do not need a gimmick. Surely the 535 elected leaders and the President of the United States know the depth and breadth of this problem, and the magnitude, and they can get together and reason, begin to deal with it, because we cannot go on piling debt on debt.

That was $1.5 trillion of debt ago. I have only been here 5 years, so we have only added $1.5 trillion of debt during those 5 years. That is more debt than in the entire first 200 years of our Nation.

A lot of people preceded me in the well to say we have the tools. It is true, we have the tools. They go on to say, "We just lack the will." It is true, we lack the will. Certainly the last two Presidents have lacked the will. They have been great on promises, but they have not delivered. In fact, the sum total of the budgets passed by the Congress and the appropriations of the Congress under President Bush and President Reagan have been less in terms of creating debt than those two Presidents had asked for. We rearranged the priorities, however.

We must get this under control. I urge my colleagues to join me in a constitutional amendment to balance the budget.

The CHAIRMAN. Does the gentleman from Wisconsin [Mr. OBEY] control the time as the designee of the gentleman from Texas [Mr. BROOKS]?

Mr. OBEY. Yes, I do, Mr. Chairman.

Mr. Chairman, I yield 11 minutes to the distinguished gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, as has been stated on more than one occasion, this is a significant moment when we come together, and the action that we take will have enormous impact upon this country. I find it even fascinating that one of the principal architects of the legislation proposed for us to act upon today has stated openly, and I admire the candor, that the gentleman is not aware of what the total implications of the act will be, not aware. That should cause us all pause. I will come back to that.

We are here talking about a balanced budget amendment, but when we remove the bumper sticker slogan, what we are really here to talk about is grappling with the deficit. I rise as one who over the years has been significantly concerned about the deficit, and I would assert, and am prepared to defend, and part of the only group in this Congress, the Congressional Black Caucus, that has offered a true plan to address the deficit, because we address the question of the deficit not in rhetorical and simplistic terms. We thought one had to address the issue of the deficit with reason and intellect.

We started with a clear, reasonable question: What contributes to the deficit? Answer: One, a rapidly rising military budget, because the military budget is capital intensive, not labor intensive.

We offered a proposal to this body against the backdrop of the Berlin Wall falling, the cold war over, the Soviet Union demolished, disintegrated. We said, "Cut the military budget. We have been spending in the aggregate $300 billion per year on the military budget to confront a Soviet threat that has now diminished, a Warsaw Pact fight, but the Warsaw Pact no longer exists."

As I said on more than one occasion, Mr. Chairman, we have been spending between 50 and 70 percent of that $300 billion per annum on the Soviet threat and the Warsaw Pact threat. They no longer exist.

□ 1610

We said start off in fiscal year 1993, make a $50 billion cut in the military budget. There is no Soviet Union, no Communist menace, no evil empire, no Berlin Wall. We said bring the military budget down in now-year dollars to one-half that in 4 years. And if you decide to level-spend to the year 2000, do you know how much real money—not smoke and mirrors, not accounting gimmicks, America—do you know how much peace dividend you can accomplish with those simple mathematics from the fiscal year 1993 to the end of this decade? One trillion dollars.

So if a rapidly rising military budget contributes to the deficit, it just makes sense to bring down the military budget. The threat is not there. That Noriega and Saddam Hussein pose a threat five times the threat of the Soviet Union and the Warsaw Pact defies intelligence and understanding, and no one rationally can defend that on the floor. But when we offered this trillion dollar proposal, what was the overwhelming and resounding decision of this body, ostensibly concerned about balanced budgets and deficit reduction? They lacked the courage to stand up, Mr. Chairman, and vote for a military budget that was a post-cold-war budget.

So, in one sense to argue about the deficit and not be willing to address the first concern of how the deficit starts out in my estimation is hypocritical and contradictory.

The second reason that contributes to a spiraling deficit: Major tax benefits to the corporate elite and the wealthy in this country. But we offered a proposal that said let us play Robin Hood. Let us take back money from the rich and the wealthy, the hundreds of billions of dollars that we gave them in tax benefits while we ripped off middle and working-class Americans. We said let us have tax equity, and let us take those dollars back from the wealthy and give them to the middle class and the working class in the form of tax equity.

Overwhelming, resounding response: No. Because the will was not there.

Third, what contributes to the deficit? The recession itself. When people are not working it contributes to the recession, contributes to the deficit. Depending on whose economist you subscribe to, you reduce the unemployment rate by 1 percent and you reduce the deficit by between $18 billion and $35 billion.

But when the Black Caucus offered you a proposal to reinvest in America and create literally hundreds of thousands, millions of jobs, if we just rebuild America's railroads you could create beyond a million jobs in this country, only 77 Members of this Congress were prepared to embrace a program to reinvest in America when America screams out for it.

So you offer a balanced budget amendment, but are not prepared to address a program that fundamentally reduces the deficit. Hypocritical and contradictory.

A fourth contributor to the deficit: The spiraling cost of health care. We spend in excess of $800 billion a year on health care, no control on costs. But rather than us bringing a health care system to this floor that the American people want, deserve, and should have, we are quarreling over who has jurisdiction, and we are at best at the primitive stages of a discussion of health care in this country. We talk about reducing the deficit, but again lack the will to put a program out here.

Finally, the S&L crisis itself contributes to the deficit. Hundreds of billions of taxpayers' dollars to bail out people that ripped them off.

But what did we do? We just said let us take it off-budget, an accounting procedure. We winked to America, but we still took their billions of dollars to bail these people out.

So if you are not prepared to cut the military budget, if you are not prepared to tax the wealthy and give it to working and middle-class people, if you are not prepared to reinvest billions of dollars in America to rebuild our crumbling infrastructure, provide education, provide for health care for the American people that will solve a problem, and generate employment, if you are not prepared to have a major health care system in this country that is real for the American people, and if we continue to slide around and play games with the S&L crisis, you tell me whether or not that is hypocritical or contradictory.

Now I have listened to some of the debate. Let us just discuss that.

"Let us live within our means." What does that mean? Sounds good on a bumper sticker.

Are we living within our means with a $270 billion military budget in a post-cold-war environment? Are we living within our means when we support 20 B-2 bombers at a cost of $44 billion when we have already built 15, and they have not made the case for 15, and you do not need 20 when you do not need 15. How many people voted for that?

Are we living within our means when we want to build star wars, we want to pass a budget with $4.3 billion to build some monument to military madness when we ought to be dealing with peace, when we want to build some mechanism to shoot down weapons when the major threat to this country in nuclear war over the next 10 years would be somebody backpacking a weapon into America. This monument to deployment is an absurdity. Is that living within our means?

Mr. Chairman, comment: "We must force this body to act." Well, let me tell you something, fellows: Mr. Chairman, I have been here before. I have heard this before. When we discussed Gramm-Rudman they said we must force this body to act.

I stood up then and said you are placing a gun to your collective heads. Members said but we need a gun to our heads because we cannot act without the gun. I then rose and said it is one thing to place a gun to your head. It is very psychotic to pull the trigger. And Members said but we will not pull the trigger. We will just scare ourselves.

But remember, in Gramm-Rudman, Mr. Chairman, we actually pulled the trigger of sequestration. But at the last second we ducked so the bullet only grazed us, because we took S&L off budget. We decided that certain programs we would protect so we slided and slid.

Mr. Chairman, you know what this is about. It is about now backing into our paychecks because now we do not have to do the work. We do not have to be held accountable, and accountability is the cornerstone of American politics.

What am I saying? You remember that old commercial where the little kid said, "Here, eat this," and "No, I'm not going to eat it, let Mikey eat it." Well back with Gramm-Rudman: Members were not willing to make the cuts in the military, cuts in programs, or tax the wealthy, so what Members did was to say let us pass Gramm-Rudman so that when pain is visited upon America they could go home and say I did not do it, Gramm-Rudman did it. You and I know if you are not prepared to cut the military budget, if you are not prepared to tax, you are going to hurt America. Whatever these speeches are, that is real. It is illogical to think that you will not. It is absurd and it is fraudulent to think that you will not.

But then we will go home, we will visit pain on America, we will hurt senior citizens, we will hurt poor people, we will hurt the children, we will hurt the farmers, we will hurt the veterans, we will hurt millions of American people, and you know what our colleagues will say as they back into their paychecks? "Incapable of making serious decisions." They will say, "I didn't do it; the constitutional amendment did it."

Mr. Chairman, we should reject this madness. The American people should wake up and stop allowing themselves to be hoodwinked into bumper sticker politics.

There are some people prepared here to lead. This is not leading today.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I rise in strong support of the balanced budget amendment to the Constitution. As my colleagues know, this is not the first time we have debated this issue, nor the first time we have voted on this issue.

In 1982, the balanced budget amendment passed the Senate but failed in the House by 46 votes. In 1990 the House voted 279 to 150, with my support, in favor of the balanced budget amendment, falling 7 votes short of the required two-thirds majority.

Mr. Chairman, quite frankly I am baffled by those who say that this amendment is not really needed. Their argument is that the Congress should just get serious about fiscal responsibility and pass a balanced budget. They argue that this body has the political will to make the tough decisions that a balanced budget would require.

On the contrary, the majority leadership has shown its political will in a strange way, by circumventing laws: Gramm-Rudman-Hollings, and the budget agreement of 1990. Even when the Congress passed laws that required a balanced budget, and imposed spending caps, the Democrat majority found ingenious ways to go around these laws.

Since this country has not had a balanced budget since 1969, I find the argument that we don't need an amendment to the Constitution to be weak. Obviously, Congress is not capable of passing a balanced budget, or it would have done so sometime in the past 20 years. The American people are tired of years of excuses. They want action.

In addition, to a mandate that Congress pass a balanced budget, we also need tax limitation. Mr. BARTON's proposal gives the balanced budget amendment teeth. The Barton amendment requires a three-fifths vote to approve a tax increase. This means Congress can not balance the budget on the backs of American people already reeling under a huge tax burden.

This is a fine institution, and I am proud to be a Member of Congress, but I am not proud of Congress's inability to control it's appetite for spending. There must be a line which we are not able to cross—a boundary that signals that we are not able to drive this great country further into debt. We must take away the Congress, ability to mortgage our children's future.

Like any individual, or corporation, or country, Congress must have internal laws which dictate order over chaos: Congress must now create a boundary to guard against the economic chaos that will be the result of endless deficit spending.

I believe that enacting a balanced budget amendment to the Constitution will accomplish this. I urge my colleagues to support Mr. BARTON's amendment.

□ 1620

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. HUGHES) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

PROPOSING AN AMENDMENT TO THE CONSTITUTION TO PROVIDE FOR A BALANCED BUDGET

The Committee resumed its sitting.

The CHAIRMAN. The Chair wishes to announce that the time remaining for allocation is controlled as follows: by the gentleman from Wisconsin [Mr. OBEY], the designee of the gentleman from Texas [Mr. BROOKS], 1 hour, 22 minutes; by the gentleman from New York [Mr. FISH], 1 hour, 38 minutes; by the gentleman from Texas [Mr. BARTON], 26 minutes remaining; by the gentleman from Texas [Mr. STENHOLM], 1 hour, 11 minutes; and by the gentleman from Oregon [Mr. SMITH], 1 hour, 9 minutes.

The Chair recognizes the gentleman from Oregon [Mr. SMITH].

Mr. SMITH. of Oregon. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, almost two centuries ago a great Virginian, Thomas Jefferson, recognized the importance of the Federal Government living within its means:

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

With this Jeffersonian wisdom in mind, we must take up the burden of political responsibility and grapple with the deficits that threaten us now and threaten to overwhelm our children and grandchildren. It is often said that a parent will walk through fire to save his children. Well, there are many red hot issues we will have to handle in dealing with the budget deficit but we must brave this firestorm to put out the towering inferno of debt that threatens the future of our children as well as our own.

Many say Congress cannot act responsibly, get deficit spending under control, and attain balanced budgets. But, for the sake of our present well-being as well as that of our children we must not accept this defeatist mentality. The American people have always risen to the occasion in time of crisis. Recently, I saw a bumper sticker that said, "If the people will lead, the leaders will follow." The American people support a balanced budget amendment. By passing a balanced budget amendment we will have the opportunity to allow the people—through the ratification process—to also take a lead in this process. We will then need to follow their lead and start the process of balancing the budget now.

When Vaclav Havel spoke before this body 2 years ago, he spoke of the velocity of changes which have truly been breathtaking in the past few years as the cold war has come to an end. The revolution in Eastern Europe was a triumph of ideas and the commitment of individuals who were often met with chilly receptions by the ruling elites. Yet events that I never thought would happen in my lifetime—the defeat of communism, the fall of the Berlin Wall, and the liberation of Eastern Europe—have progressed in a domino-like effect the likes of which many never expected. While I always had faith my children would live to see this, I didn't think it would happen in my lifetime. We might pause to consider how implausible these events seemed just 10 or 20 years ago. When Ronald Reagan called the Soviet Union an evil empire less than a decade ago, he was ridiculed in the press and by defenders of the status quo. Yet, when the walls came tumbling down, the last laugh was on those who stubbornly defended the virtues of communism and socialism despite the misery of those who experienced the reality.

When Whitaker Chambers wrote "Witness" almost a half century ago, he wrote of the United States being the "losing world" in the superpower struggle. Chambers wrote upon leaving the Soviet Union:

> By any hard-headed estimate, the world I was leaving looked like the world of life and of the future. The world I was returning to seemed, by contrast, a graveyard. * * * I wanted my wife to realize clearly one long-term penalty, for herself and for the children, of the step I was taking. I said: "you know, we are leaving the winning world for the losing world. I meant that, in the revolutionary conflict of the 20th century, I knowingly chose the side of probable defeat. Almost nothing that I have observed or that has happened to me since, has made me think that I was wrong about that forecast. But nothing has changed by determination to act as if I were wrong—if only because, in the last instance, men must act on what they believe right, not on what they believe probable.

Fortunately, Whitaker Chambers was wrong. Good men and women joined together and stood up for what was right, made sacrifices when necessary, and fought the good and noble fight that has brought us a world today in which democracy is rising on almost every horizon around the world. As Whitaker Chambers noted, many "freely made the choice which history is slowly bringing all men to see is the only possible choice—the decision to die, if necessary, rather then to live under communism." As we turn to our domestic problems, such supreme sacrifices are not necessary. Yet sacrifice is a word we must once again become acquainted with as we muster the resolve to deal with many of our seemingly intractable domestic problems.

* * * THE WORST OF TIMES

Recently, we have heard some of our most esteemed colleagues despairing of the ability of Congress to adequately address the Federal deficits. Senator WARREN RUDMAN, who has decided not to seek reelection, has delivered a somber message:

> We're heading toward third-class status at the end of this decade unless we do something about this particular problem of the deficit * * * by 1997, that slice of the federal budget which all people think of as government, the government as we know it, will be under 5 percent. Sixty some percent will be entitlements, 18 percent will be service on the national debt, a small percentage of maybe 14 percent for defense. That will leave a tiny sliver for everything we call government—education, health, highways, crime prevention, foreign affairs and so forth.

Senator JOHN DANFORTH expresses what many of us and many around the country know to be true:

> I think the major cause [of voter discontent] is that deep down in our hearts, we know we have been accomplices to doing something terrible and unforgivable to this wonderful country. Deep down in our hearts, we know that we have bankrupted America and that we have given our children a legacy of bankruptcy.

Recently I read a book entitled, "The Coming Economic Earthquake," by Larry Burkett, a financial counselor from Gainesville, GA. Mr. Burkett compares our current complacency about the deficit with that of people who live in earthquake regions who often develop "a fatalistic attitude toward the eventuality of a major eruption—until they actually experience one." Burkett writes, "The same attitude prevails among those who have not experienced an economic earthquake. Those who lived through the Great Depression still remember and shudder at the thought. And those born after the Depression have a rude awakening in store." Mr. Burkett makes another comparison: "I truly believe the debt and deficits represent the greatest threat to our Nation since World War II, perhaps longer. At least then we had a visible enemy; we're dealing with a cancer in the government now."

If we allow this cancer—the deficit—to continue to grow we will be killing our future. There simply will be no money for the many needs facing this country. No money for crime prevention or restoring our inner cities; no money for cancer or health research, no money for highways or education; no money for the long-term health care needs of the elderly or victims of Alzheimer's disease; and no money for increasing our economic competitiveness through job training or adjusting to a peacetime economy. When we look around at all the great needs in this country, with roads, inner cities, and families falling apart, we will have eliminated our ability to respond. And who will be hurt under this kind of scenario? We will be spending three times more on interest payments on the deficit than we will be able to spend on helping the American people. In any kind of dramatic crisis, those of modest- and middle-class means and the elderly living on fixed incomes are the ones least able to cushion the blows of hardship. Spending beyond our means will catch up with us sooner or later. Like a cancer, this problem threatens our very existence as we know it if we don't cut it out and start the healing process.

HOW SERIOUS IS THE PROBLEM?

The deficit for 1992 is estimated to be approaching $400 billion—almost double what it was 2 years ago when everyone was very concerned about the deficit. Even if we totally eliminated the defense budget this year we could not balance the budget—we would still come up $100 billion short. The net interest on the debt is now the third biggest item in the budget following only defense and Social Security and could soon move into first place. Yet when it comes to the deficit it seems that Congress has acquired an acute case of deficit inattention disorder.

Our national debt is at $4 trillion. The New York Times recently reported,

Spending more than $4 for every $3 collected, the United States Government is hemorrhaging red ink at a record pace this year—about $1 billion a day, or $11,574 a second. * * * All the personal Federal income tax paid by people living west of the Mississippi fails to pay even the interest on this staggering sum, which has quadrupled in scarcely more than a decade. Interest payments on the debt are 15 percent of the Federal budget, compared with only 10 percent a decade ago.

John Trucillo, an economist for the National Association of Realtors, estimates that Federal deficits increase mortgage rates by as much as one-half percent more than they should be right now. These extra percentage points mean that many Americans simply cannot afford to buy a home. All of this means a lot of money that is truly wasted. Not one penny will go to educating our children or to finding a cure for cancer or for rebuilding our cities and roads. As we look around at so many of the problems that face us today, we will be left holding an empty check book and some worthless IOU's.

As Lee Iacocca recently pointed out in a graduation address, "Debtors can't be leaders. It's the guy holding the IOU's who calls the shots; the other guy is called a hostage." We must start trying to gain the release of the American people from the tyrant called deficit spending.

Some additional facts to focus your attention on the magnitude of the problem include the following:

The deficit today is approximately equal to the entire Federal budget in our bicentennial year, 1976. The outlays in 1976 equaled $371 billion. (Fiscal Year 1993 Budget Supplement.)

The deficit is rapidly approaching the amount of money collected in Social Security taxes. Social Security estimated taxes equal $410 billion in 1992. (Fiscal Year 1993 Budget Supplement.)

Total U.S. debt burden hit $10.6 trillion in 1991. This amounts to almost $50,000 for every man, woman, and child in the United States and is almost twice the nation's GNP. (Tax Foundation.)

The Federal Government spent approximately 40 percent of individual income tax revenue on net interest payments in 1991. (Citizens for a Sound Economy.)

Peter Grace of the Grace Commission and founder of Citizens Against Government Waste predicts that by the year 2000, Federal interest payments alone will consume all Federal income tax revenues. In other words, our children and our grandchildren will be paying off tomorrow what Congress spends today.

The average two-income family with two children will pay $4,822 in income taxes this year and 58.1 percent of their income taxes will go towards interest payments on the gross Federal debt. (Citizens for a Sound Economy.)

The national debt now represents 64 percent of GDP compared to 28 percent in 1972. (Larry Burkett per Treasury figures.)

The Federal debt of $4 trillion means that every American owes some financier somewhere in the world $16,063 and just the interest on the 1992 deficit will add an additional $1,159 to the per-capita debt burden of every American. This level of debt means a smaller pool of potential wealth for future generations and it means that our children and grandchildren will not enjoy the same standard of living that we have today. (Tax Foundation.)

As the father of five children, I am very concerned that with our current spending patterns, we are mortgaging the future of our children. And while we often talk about how we are drowning the next generation with our debts—as if that were not bad enough—today's swelling deficits could drag us down in the undertow also. Michael Boskin, the Chairman of the Council of Economic Advisors, stated that if the individual income tax rate kept pace with Federal spending in order to balance the Federal budget, revenues from individual income taxes would have to be 78 percent higher than they are currently to eliminate the deficit. Mr. Boskin pointed out that such an increase would inflict enormous damage on the U.S. economy.

Perhaps we have gotten so used to speaking about billions and trillions that few of us stop to think what these figures really mean—we have been numbed by the numbers. Everett Dirksen once said, "A million here and a million there and first thing you know, you're talking about real money."

We need to recognize that this is real money we are talking about—whether it be $1,000, $1 million, $10 million, or $10 billion. We often hear people argue that a program is just $10 million or $100 million and that this is a drop in the bucket of the deficits.

But just to put these numbers in perspective, $100 million equals the median income of approximately 2,500 American families. That means that what 2,500 families earn by the sweat of their brow—many working overtime, many spending too much time away from their families—we cavalierly throw away as just $100 million. And to give you an idea of the difference between millions, billions, and trillions—the Tax Foundation explains it well:

A million seconds have elapsed in less than 12 days, a billion seconds took more than 31 years to tick away, and a trillion seconds ago was back in the Stone Age, in the year 29,697 B.C.

One more reality check—$1 trillion in tightly bound $1,000 bills would produce a stack nearly 63 miles high. We must get some perspective here before the numbing numbers totally disable our economy or our will to do anything. Our future and our children's future depends upon us seriously grappling with the hard choices we will have to make to get Government deficit spending under control. We hear a lot about the peace dividend but the fact is we have already spent the dividend and then some.

By the year 1999, if current trends continue, we may very well be met with a bankrupt disability fund, a crumbling Medicare system and a gravely threatened Social Security system. While some have argued against the balanced budget amendment claiming erroneously that it would require cutting Social Security, the fact is Social Security recipients are much more threatened under the status quo in which we are heading toward national bankruptcy. As our debts increase, inflation threatens to reappear and swallow up the long-term savings of the elderly and others who live on fixed incomes. Our Social Security surpluses, supposedly being built up now to pay for the retiring baby boomers, are being eaten up by the deficit. The IOU's that will await many baby boomers may not be worth the paper they're written on. If we want to avoid what former Social Security Administrator Dorcas Hardy has called social insecurity, we must secure these funds from the ravages of the deficit so that our present and future retirees can have peace and security in their later years and not be forced to live nervously on economic fault lines.

HOW BUSINESS AND ACADEMIC LEADERS VIEW THE DEFICIT

Recently, I wrote to economists and business leaders across the country to ask their opinion on the severity of the Federal budget situation. The responses indicated a deep concern about the problem, and a need for appropriate congressional action. I have excerpted the responses below, but would be happy to make available to other Members the full texts.

It is my firm belief that continued deficits and the enlarging total debt will inevitably lead to lower standards of living for the citizens of our country. * * * We are mortgaging the future of our country, and the citizens will, at some point, have to bear the burden.—Edwin L. Artzt, Chairman and CEO, Procter & Gamble.

Suppose you're a financial counselor and a couple comes to you in the following financial situation: Their income is $3,000 a month, but they're currently spending approximately $4,000 every month. They have run up credit card debts of $20,000, have a home loan of $200,000, a second mortgage of $50,000 and a line of credit (tapped out) of $10,000. * * * What advice would you give them? The situation is not easily salvageable with this couple since it means a total commitment to a different lifestyle. They had a lot of fun getting into debt, but getting out won't be so much fun. With their options rapidly running out they must either cut back and start liquidating assets or face certain bankruptcy. What happens to a country that cannot just file for bankruptcy and start all over again?—Larry Burkett, President, Christian Financial Concepts.

The effects of the debt are insidious. The implications are lower private investment and greater foreign indebtedness than would be the case with a smaller deficit, but no one can come up with numbers that measure the reduction in investment or increase in foreign indebtedness. All that we can see are stagnating living standards.—George M.C. Fisher, Chairman and CEO of Motorola, Inc.

Yes, I believe that we have a serious problem in our chronic inability to balance our government's spending and revenues. The resulting deficit is a drain on our national savings, a drain that prevents our country from investing adequately in any of the makings of a strong economy—factories and machinery, new housing for growing population, or an adequate balance of debits and credits with our international trading partners. As a result, our productivity and competitiveness have already suffered, on the present trajectory they will continue to be impaired.—Benjamin M. Friedman, Harvard University.

The real problem this country faces is not the debt but the level of spending, and the level of spending is a major problem regardless whether it is financed by taxes or by a deficit. A deficit is simply a form of concealed taxation.—Nobel Laureate Milton Friedman, Hoover Institution.

I believe that the deficit has resulted in high real rates of interest in the medium and long-term markets, and a corresponding increase in the cost of capital for U.S. companies. The impact of the higher cost of capital is the U.S. companies are less competitive than their foreign counterparts. * * * I have numerous contacts with business executives and government officials throughout the world, and to them, the budget deficit is a sign of their country's irresponsibility in fiscal management and an inability to prudently govern itself. * * * It is difficult to provide world leadership when the country can't put its own house in order.—Joseph Gorman, Chairman of the Board of TRW.

The deficit problem is insidious because it is not likely to result in a sudden shock or cataclysmic event that would make clear the need for corrective action. Rather, our sustained fiscal imbalance implies a steady erosion of our potential for growth in productivity. The effects in any one year may be small, but over time they will accumulate to a significant shortfall in living standards from what would otherwise have been possible.—Federal Reserve Board Chairman Alan Greenspan. 1

There is a growing realization that the deficit is sapping the vitality of the American economy. * * * Numerous reports indicate that the pattern of steadily improving living standards that we have enjoyed has slowed with the economy and may be declining. We are concerned that, as a result, future generations of Americans are unlikely to be afforded the same quality of life that we have today.—William Howell, Chairman of the Board of J.C. Penney.

The day of reckoning will come, of course. Historically, nations which accumulate debt beyond their ability to service it, repay in debased currency. This would be a tragedy for America. At some point, those who serve our Federal government will decide that they love their country enough to prescribe the bitter medicine that will heal, even if reelection is not the reward.—Former OMB Director G. William Miller.

The implications for the economy of this enormous debt include: a diversion of more than half of private savings away from productive private investment just to finance the national debt; requiring nearly 20% of Federal outlays each year just to pay the interest on the Debt. This year, for example, interest payments will almost equal domestic discretionary spending; by 1998, they could exceed defense outlays.—John W. Snow, Chairman and President of CSX Corp.

A second problem caused by the large federal deficit is that it greatly restricts the ability of the federal government to respond both to the nation's pressing domestic problems and to its international challenges. For example, rebuilding our decaying infrastructure, responding to the needs of the environment, reforming and improving the level of education within the U.S., and responding to the radically changed environment internationally are all affected by the need to control federal spending because of the huge federal deficit.—Alex J. Mandl, Chief Financial Officer of AT&T.

Deficit financing raises interest rates. Investors demand higher interest rates to hold more and more government securities in their portfolios, and this pushes all interest rates higher. * * * Congress and the Administration have to adopt a leadership role in educating the voting public about the dangers of deficit financing, and then make tough choices about cutting spending. * * * We should want to be assured that such goals as a good education, adequate health care, employment, and home ownership remain attainable for those yet to be born.—Allen E. Murray, Chairman and CEO of Mobil Corporation.

When does the size of the federal deficit and the magnitude of the Federal debt become a serious problem? I would submit that that day has already arrived. Homeownership has fallen since the middle years of the 1980s, and homelessness has become a growing problem in all major cities; average real weekly earnings of workers in the nonfarm business sector has declined over the past 20 years, and unhappiness with the state of the U.S. economy is greater among the public than at any time in the postwar period; our government keeps telling us that we cannot afford to do the things we need to—dealing with crime and drugs on an effective scale, rebuilding our bridges and highways, providing adequate medical care for the poor, and overhauling our educational system. But the fact is that we could afford to do these things and more if we were willing to make the tough political decisions necessary to eliminate the federal deficit.—Lyle Gramley, Chief Economist, Mortgage Bankers Association of America.

One measure of the severity of the situation is the fact that in 1991 Federal borrowing to finance the deficit represented over 85 percent of the total U.S. credit market, up from just 36 percent in 1988. Federal borrowing is soaking up most of the money that would otherwise be available for economic expansion, limiting the ability of industry to create jobs and build wealth.—James McDivitt, Senior Vice President, Rockwell International.

There are now about 100 million households in the United States. * * * The federal budget, thus, is about $15,000 per household, the deficit is about $4,000 per household, and net interest payments on the prior debt is about $2,000 per household. * * * Do you value the federal services that you receive by as much as $15,000 a year? Do you prefer to increase your future liabilities (and those of your children and their children) by as much as $4,000 each year.—William A. Niskanen, Chairman of the Cato Institute.

HOW TO START DEALING WITH THIS PROBLEM

"Any government, like any family, can for a year spend a little more than it earns. But you and I know that a continuation of that habit means the poorhouse." These words were spoken by Franklin Roosevelt over a half century ago. If we could once again get both Democrats and Republicans to follow this tune, happy days certainly would be here again. How are we to govern in order to achieve these happier days?

This will not be an easy task and like the task of defeating communism, it will have its skeptics. Yet I believe in the resolve of the American people to unite and do the right thing and overcome the frustration that is often characteristic of free and democratic institutions. The cold war was a long and often lonely battle for those committed to the fight, yet we stayed the course for the long term, made sacrifices and prevailed—no easy task. And once again, plain and simple, there are no short cuts here, no painless solutions, no hot fudge sundae diets. The work that needs to be done requires hard choices, setting priorities, casting in our lot for long-term planning with sacrifices along the way, and an honest and extended discussion with the American people about how to get our house in order.

We must be open and committed to finding new ways of dealing with our Nation's needs and problems—new ways that stretch our trillion dollars plus of revenues further than we do today. A trillion dollars, as I noted earlier, is a lot of money. We should be able to find a better way to spend this vast wealth to adequately provide for the security, safety, and health of our Nation in more effective ways.

In tackling the budget, first, we should lead by example by calling upon Congress to freeze our own salaries, freeze our operating budgets for a year, and freeze the budgets for Government agencies for 1 year allowing growth only for inflation. President Bush was right when he said "government is too big and it costs too much." Sacrifice must begin at home or to be more precise, in this House.

The Secretaries and agency heads in the Federal Government should be charged to target reductions by adopting more efficient methods of delivering services. We must focus more on outcomes rather than the dollar inputs.

A recent book, "Reinventing Government," that is being touted by those on the left and the right illuminates many

of the cost-cutting ways that we can actually provide better government with less, not more, money. New thinking such as this is how we can lead by example—embracing new ways of solving problems and challenging ourselves to reject the old orthodoxies of many of our failed yet seemingly immortal programs.

It is simply disgraceful that programs once created in Washington never die—no matter what the need for them or how ineffective they are in responding to their mission. President Bush has proposed the elimination of 246 outdated or ineffective programs and over 4,000 unnecessary projects. Yet not a single one of these proposals has been enacted.

As Budget Director Darman has written, "It is as if even discretionary programs are entitlements—guaranteed, somehow, that they will be immortal." The immortality of any and all Government programs, no matter what their results, is one orthodoxy that must not stand.

Next we must pass a balanced budget amendment. This will be the single most effective means of curing the deficit inattention disorder in Congress. The balanced budget amendment will focus our attention like no other legislative means available. This measure will force Members of Congress as well as the American people to squarely address our spending priorities.

Although some have attacked the concept of initiating this process and have called it an easy vote, serious lawmakers recognize this is only a start—an effort to frame the terms of the debate, to put limits on the Federal credit card, to in effect cut up the Federal credit card, and to acknowledge that the bucks stop here and now.

Many who previously opposed a balanced budget amendment have recently come to the conclusion that this is the only measure that will impose some restraint on the runaway spending habits of Congress. Former Congressman Bill Frenzel recently testified before Congress:

> I think you should adopt the balanced budget amendment simply because you have proved you cannot do anything else * * * if Congress does adopt a balanced budget amendment, it must begin preparing fiscal policy now. We need a fiscal plan in place immediately so that the abrupt disruption will not take place. There is an implied challenge here to those who vote for the balanced budget amendment * * * And here, the final caveat. If you do it, you had better mean it. The public will not embrace you because of one vote. They have seen all the budget scams of the past 20 years. A vote for the balanced budget amendment, cast in the hope of non-ratification by the states, is only going to cause the Congress' public approval to sink lower.

Columnist George Will has also joined the ranks of balanced budget amendment supporters:

> I have hitherto argued against a balanced budget amendment on the ground that it is wrong to constitutionalize economic policy. Since then there have been 2.9 trillion reasons for reconsidering—the 2.9 trillion dollars added to the nation's debt. My mistake was in considering deficits merely economic rather than political events. In fact, a balanced budget amendment will do something of constitutional significance: It will protect important rights of an unrepresented group, the unborn generations that must bear the burden of the debts.

Not surprisingly, those who are the biggest pork barrel spenders in Congress are now squealing hysterically that the balanced budget amendment will end life as we know it. I will let others tell you of the faulty methodology and misrepresentation of facts upon which these critics of an amendment have based their doomsday findings, but one thing the critics of the amendment fail to point out is that the balanced budget amendment must be ratified by three-quarters of the States. This will only be done if the people truly support this measure. This is no easy sell. This process will involve millions of people across the country. The ratification process will occur in the context of a nationwide debate among the people of this country. The people will be an integral part of the process—a refreshing change—a kind of sunshine law for the national budget.

The Congress should also provide the President with the line-item veto, something that 43 Governors, including the Governor of Virginia, is able to exercise to cut wasteful spending.

Yet these measures are only a start. We will also have to start addressing how to balance the budget now. I would suggest that the President call together Senator RUDMAN, former Representative Bill Frenzel, former Office of Management and Budget Director Jim Miller, and others to put together a workable balanced budget scenario that can begin to be implemented first thing next January.

This process will be about setting priorities and making hard—but fair choices. Among these choices, we will have to look at long-term entitlement reform that ensures and protects the needs and rights of the most needy among us. Director of the Office of Management and Budget, Dick Darman, has pointed out that mandatory programs have taken over the Federal budget, now amounting to almost two-thirds of the budget. They also account for most of its growth and they do not come up for annual review by the Congress. Yet the public is largely unaware that almost two-thirds of the Federal budget is—at present—beyond effective control.

Yet we cannot credibly reform entitlements until we have reformed our discretionary spending habits and that is why efforts such as the recent pork barrel rescissions are so important in sending the message that we have a commonsense notion of priorities that focuses on providing essential services.

But since the tables will be turning come November and we will have many new Members, the practical realities tell us that the real work of dealing with the budget will not come until next January after the 1992 elections. However, once we are back in session in January and the President has these recommendations, the President should keep Congress here, cancel any recesses, and start the hard work of how to implement the balanced budget amendment.

In times of rapidly doubling deficits, the American people deserve our redoubled resolve and commitment to give serious attention and extensive time to a long-term solution to getting government spending under control. This effort will require sacrifice, discipline, and undivided attention to this matter. As my colleague BILL GRADISON has pointed out:

> It is sometimes said that few voters would favor balancing the budget if they truly understood what it would cost them in terms of the higher taxes or reduced services needed to achieve it. Yet it could also be said that few would favor letting the deficits continue if they truly understood how much it was costing them in terms of lost future income, consumption, and living standards.

I call upon my colleagues to join in getting this message out to the American people. The American people can no longer afford our inattention to the serious disorders threatened by our looming budget deficits.

Mr. OBEY. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I rise in opposition to all of the constitutional amendments.

There has been a lot of debate about the causes of our economic quagmire, and there are many. I do not think it serves any purpose for us to try to rehash what went wrong in the 1980's that brought us to where we are.

Many of us on both sides of this issue are in the well arguing that many of the policies that were set in the 1980's such as the tax cuts and the excessive military buildup, arguing that we would be here one day with a kind of economic doldrums and the crises that we face in this country today.

I really believe that balancing the Federal budget would be the best economic growth package that the Congress could pass. I also believe that the so-called balanced budget amendments before us today are just gimmicks. They will do more harm than good and that they clearly contain no mechanism for actually producing the balanced budgets that I think we all really seek.

□ 1630

There should be no question in anybody's mind, certainly not in the minds of the American public, that the borrow and spend policies of the past 12 years have left our Nation mired in

debt and struggling under anemic growth. The long painful recession we are experiencing now in my judgment is in large measure due to the irresponsible policies that we have seen of late.

Spend now and pay later is a great philosophy while you are in the "now" part of it. Unfortunately, we have reached the later part of it where we have to pay for what we spend and we have, indeed, mortgaged the future of our children and our grandchildren, and it is kind of scary what has happened in this country.

The citizens of our country are aware of the fact that the spending binge is over and "feel-good" politics is no longer acceptable, and yet that is what we have once again.

The balanced budget amendment is misnamed. It should be named the feel-good amendment once again, because there is no mechanism for balancing the budget. There is no mechanism. The only mechanism that exists for balancing the budget is for making the tough choices on spending and on taxes.

I have heard a lot of debate today about what needs to be done and the failure of leadership, and there is enough failure to go around.

You know, I hear Members on this side in particular talking about the Congress. Well, the Congress has a role to play, but the budget process begins, as my colleagues know on both sides of the aisle, with the President. The President submits a budget and that begins the budget process.

I have not seen a balanced budget offered since I have been here under any President. I have served under four Presidents. I have not seen one balanced budget amendment. I have not seen one budget submitted that is anywhere near in balance.

It is ironic at a time when we are talking about a budget deficit that is approaching $400 billion, we hear a lot of rhetoric about putting something into the Constitution that will balance the budget.

Well, the Constitution does not provide any impediments for us to do our work. There is enough leadership here in the Congress to provide basically the kind of budget priorities, the sorting out that we need to do, to bring those deficits down.

Frankly, I am saddened to hear that some of the proposals would take off the table any area of the budget, whether it be entitlements or military or the nondefense domestic part of the budget. No part of the budget can be taken really off the table for us to try to get down to the hard task of balancing the budget.

What this amendment would do in the final analysis would clutter the Constitution with economic policy that I am not really sure I understand in the final analysis what it means.

For instance, I know that there are six provisions being offered to amend the Stenholm amendment coming to the floor. I just saw that a little while ago.

I am not so sure what revenues mean. I am not so sure how we are going to deal with off-budget items.

We took some testimony in the Judiciary Committee a number of years ago from the Congressional Research Service on what would be required, and they were talking in terms of something like 14 to 15 pages would have to go into the Constitution to define the terms and basically to determine whether it is on-budget, off-budget, independent agency expenditures, 14 or 15 pages.

You know, if we put into the Constitution every time we had a crisis, political, social, or economic in this country, we would have a Constitution that would be 100 pages long.

Can you imagine what that would do to our basic fabric, our organic law that we all revere? It would decimate it.

The Constitution is for fundamental rights, a division of responsibility that is in Government. It was never meant to be the repository of whatever we want to put there because we cannot figure out how to deal with a crisis in this country.

The final point I want to make is that do you really want to send to the unelected Judiciary the responsibility for sorting out tax and spending priorities? Is that what you want. Is that what you want to do to representative Government in this country?

I cannot believe that my colleagues would do that. It would be a major realignment of power over which you would have no control as the elected Representative of the people in trying to sort out priorities, because all you could say would be, "Well, the Constitution requires us to have stalemate. Let the courts sort this out."

Is that what you want? I do not think so.

Mr. Chairman, I would urge my colleagues to vote against all the amendments.

Mr. BARTON of Texas. Mr. Chairman, I yield 9 minutes to the distinguished gentleman from Washington [Mr. MILLER], one of the chief sponsors of the Barton-Tauzin-Miller tax limitation amendment.

Mr. MILLER of Washington. Mr. Chairman, I thank the gentleman from Texas for yielding me this time.

Mr. Chairman, this is a long debate, and it should be. This is a historic debate for those who are watching here and watching on television, and it should be a long debate, because we are dealing with some momentous issues, whether to amend the Constitution. That is always important.

We are also dealing with a fiscal crisis such as this Nation has never faced, and that is worthy of a great debate.

Now, when I first came to Congress back in 1985 with my colleague, the gentleman from Texas [Mr. BARTON], at that time the deficit was a huge problem. Many of us sponsored an amendment to the Constitution to require a balanced budget, and we did not get anywhere; but as the years have gone on and as the interest on the debt has piled up, support has grown so that this year there is a debate not only on whether to have a constitutional amendment requiring a balanced budget, but what kind of constitutional amendment.

The traditional amendment offered by my colleagues, the gentleman from Texas [Mr. STENHOLM] and the gentleman from Oregon [Mr. SMITH], which I support, basically says that if you are not going to have a balanced budget, you have to have a three-fifths vote of both Houses of Congress, with exceptions such as an emergency for war.

But there are additional alternatives this year. My colleagues, the gentleman from Texas [Mr. BARTON], the gentleman from Louisiana [Mr. TAUZIN], the gentleman from New Jersey [Mr. PALLONE], and myself and over 100 others have sponsored an amendment that says, yes, we should require a three-fifths vote to have an unbalanced budget, but we should also require a three-fifths vote if we are going to raise taxes at a rate greater than the increase in national income.

Now, why have we added that? Why have a tax limitation? Why tie it to the growth of national income?

You have been hearing this debate about all the ills and evils that flow from deficits, the string of unbalanced budgets going back to 1969. You have been hearing about the growth of the interest on the national debt to where it is passing discretionary domestic spending, but something else has happened in the last 40 years.

Back in 1950, the total Government spending of this country at all levels, Federal, State and local, came to 25 percent of our national income. Since 1950, it has been rising steadily, slow during the Reagan years, rising again to where now it is up to 43 percent of our national income going to Government services, and two-thirds of that for Federal Government services.

How many people in this country feel they are getting Government services worth almost half their incomes?

□ 1640

Not many, I believe. And what does it say about our country, this growing percentage? What does it say about the choices we make? What happens if that 43 percent rises to 50 percent, as it surely will under the present system in several years? When it passes 50 percent, what does that say about our economy in terms of individual choice and free enterprise when Government spends over half the income?

And when it gets up to 60 to 70 percent, of course, then you are approach-

ing what the former Communist governments of Eastern Europe spent on government services.

So that is why Messrs. BARTON, TAUZIN, PALLONE, and myself and over 100 others have sponsored a balanced budget amendment that also makes it more difficult to raise taxes.

Now I want to talk about some of the arguments that have been made against our balanced budget amendment and others that I have heard as I have listened here, and they really follow a pattern. I think it is worth taking some time to go over these arguments.

Argument No. 1: We have heard the Constitution should not be amended lightly; it is better to leave economic policy to the legislative and executive branches. Now, there are some truisms there. Of course, the Constitution should not be amended lightly. The issue here is how important is it to have a balanced budget? How important is it to have a tax limitation?

Of course, the President and Congress want to be able to form economic policy without constitutional guidance. The Bill of Rights, the first 10 amendments to the Constitution, include the premise that freedom of speech, press, religion are important enough to be included in the Constitution. So important they should be included in the Constitution.

The premise is we cannot trust Congresses and Presidents to protect those freedoms. And we who propose a balanced budget amendment and tax limitation amendment say, "Yes, fiscal integrity and economic freedom are so important that it should be included in the Constitution after 23 straight years of failing to provide a balanced budget and after 40 years with a rising percentage of our national income going to Government services."

The second argument that we hear against these amendments is that it somehow violates our democratic principles to limit majority rule with three-fifths vote requirements.

Well, let me tell you something. In our democracy sometimes we have majority rule requirements and sometimes we have different requirements. We have a two-thirds requirement in the Senate for approval of treaties. Why? Because the Founding Fathers said treaties are so important.

We have a two-thirds requirement in the Senate for impeaching a President. Do you know even if both Houses vote unanimously, they still cannot abridge freedom of speech because that is so important?

It gets back to what is important. How important is the principle? And when the principle is important enough, yes, we sometimes limit majority rule.

We have heard the argument, "Oh, my goodness, a balanced budget amendment will require the courts to enforce it, it will bring the judiciary into this question." My goodness, the judiciary has been interpreting and enforcing the Constitution since we have had a Constitution. Every year there are court decisions on the Bill of Rights and other constitutional amendments.

Finally, the argument that, "Oh, you don't need an amendment. Just go ahead and balance it. That is not a problem." Well, in the ideal world that is what ought to happen. But it has not happened for all these years. That is why we need the fiscal discipline these amendments are going to offer. That is why we are saying, "All right, constitutions and constitutional amendments, when we have human frailties and human limitations," and, boy, we have had frailty when it comes to balancing the budget, that is why over 200 years ago Thomas Jefferson, one of the Founding Fathers, said if he had to add one amendment to the Constitution, it would be this one. Two hundred years later, let us follow Jefferson's advice.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I have been an original cosponsor of this constitutional amendment approach to the Federal budget since I arrived in Washington 3½ years ago. I did so because I think it is not only good business but because over 40 States in our Union have constitutional requirements.

Sad to say that the Budget Act, since it was enacted in 1974, has been waived over 600 times and it seems obviously and painfully clear to me that a mere statute will not accomplish the purpose for which we have set our course today.

There is one thing that is also equally abundantly clear to me, and that is simply this, Mr. Chairman: We must take whatever measure we can as a people, not as a Congress whose blame there is to share here, not as a President who has not submitted a balanced budget, but as a people to take the partisan political posturing out of the decisionmaking process that protects the financial integrity of our country.

That is what must be necessary. I quite frankly do not care if someone is a Republican, Democrat, an Independent, or, as we say at home, a Mugwump. We are all Americans, America's financial future is in peril, and the Constitution of our country is our common anchor as citizens of the United States.

For that reason I hope that this vote will carry the day and we will pass this constitutional approach to the balanced budget amendment.

Mr. OBEY. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to all of these amendments.

You know, my colleagues, the 1990's seem to be the decade of quick cures and cheap gimmicks. This is one of them. That is at the top of the list.

There is no miracle diet here. If you do not exercise, if you do not eat less, you can take any miracle pill you want, you are not going to lose weight. No pain, no gain.

Similarly, here, if you do not cut spending or you do not raise taxes, you are not going to reduce the budget deficit. It is no wonder that some who are for this amendment fought tooth and nail to prevent an actual budget from being presented with this balanced budget amendment. That is simple, because they know that we could not pass one.

So we will pass this nostrum, we will pass this amendment, and then we will come back here and if Congress does not have the will, which it has not so far, to raise taxes because this side will say we cannot raise taxes, or to make the spending cuts because both sides will say we cannot make the spending cuts, we will not obey the Constitution. Then what will happen? Will the courts then order the Congress to pass this balanced budget? Nobody has the answer to that question. And if Congress does not, will Congress be held in contempt?

Ladies and gentlemen, that is a very serious and sad joke. Because we are unable to deal with the real problem, we come up with a fakery; we say, "Oh, yes, we will tie our hands and we will do it 2 years from now or 4 years from now or 6 years from now."

□ 1650

Mr. Chairman, we have heard that before. We heard that with Gramm-Rudman. It did not work. We have heard it with all these other things. We are like an image running away from reality.

One of my colleagues before, the gentleman from Oregon, said that this amendment represented the search for the Holy Grail. Well, my colleagues, if we pass this amendment, we are not the Knights of the Roundtable. We are more like Monty Python's Flying Circus. We are avoiding the reality and making a spoof, a joke, of the kind of things we should do.

The 1990's are something else, my colleagues. They are the era of the scapegoat.

Let us talk realistically to the American people. When we ask, "Do you want a balanced budget," they all say, "Yes," and tell us, "Yes."

When we say, "Do you want your taxes raised, or do you want your spending cuts from programs that affect you," they all say, "No."

And Congress reflects that. On this kind of issue, where the money goes, Congress should reflect the American people.

But unfortunately none of us, whether it be Congress or the American people, have come to grips with the necessity that we must balance our budget, and that is why we run away from doing it and come up with decisions and gimmicks and nostrums that will postpone doing it and make us feel good for a few years while things get worse and worse and worse.

Mr. Chairman, I say to my colleagues, "If you want a balanced budget, my colleagues, stand up and say, 'Yes, I vote to cut the following 20 programs, and some of them affect me and my constituents,' and, if you want to balance the budget, my colleagues, say, 'I will vote to raise taxes, and some of them affect me and my constituents.' But don't say, 'We'll do it 3 years from now because this amendment will force us to.' It will not force us or the American people to face the hard realities."

Mr. Chairman, only the impending economic crisis will do that. Only real leadership will do that. All the speeches about this amendment should be sucked back in, and the energy should come out with speeches in every corner of America telling the American people they must face the reality of fewer programs and paying more if they want to balance the budget.

Mr. Chairman, it is not cheap, it is not easy, but it is the only thing that will do the job.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I thank the gentleman from Texas [Mr. BARTON] for yielding this time to me.

Mr. Chairman, I rise to bring this debate back to reality. As a cosponsor of the balanced budget amendment, I strongly support the Stenholm amendment. I also support the Barton-Tauzin tax limitation approach because it does the one thing the other substitutes do not. It protects the American taxpayer from a Congress addicted to spending for a political high.

I ask, "Why shouldn't Congress bring Federal spending under control or be forced to go on record to increase the tax burden on the American people?"

I have been in Congress, as a new Member, for only 18 months, but that is long enough to convince me that the only way to instill fiscal discipline here is to deny Congress more money to spend. The problem with the deficit is not that Congress taxes too little, but that it spends too much.

This year revenues alone will reach $1.2 trillion. How can anybody argue that $1.2 trillion is not enough money to sustain the Federal Government? Congress must simply cure its addiction to spend, and, as Senator RUDMAN said recently, "Time is running out."

Mr. Chairman, this past weekend I held a special town meeting in my district. Three hundred people gave up their Saturday morning to discuss the budget deficit. They came because they cared about the future of their children and grandchildren, because they could not understand why the Congress cannot do what every household in America must do every day, balance the budget. People are sick and tired of business as usual that has caused this fiscal crisis. People are sick and tired of a $400 billion deficit. It is no wonder our economy is sluggish when our debt service alone comes to $310 billion from the Federal budget.

Mr. Chairman, history has shown that Congress is both institutionally and politically incapable of balancing the budget. Congress is showing that it needs the force and moral authority of the Constitution to balance the Federal budget.

Mr. Chairman, I urge my colleagues to put politics aside for the sake of the country and vote for the American taxpayer, for the Stenholm and Barton balanced budget amendments.

Mr. SMITH of Oregon. Mr. Chairman, I yield 3 minutes to the gentleman from northern California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in strong support of adopting a constitutional amendment to require a Federal balanced budget. Today may be a turning point in our history. Will we change the course of our Nation, or will we continue on the spending binge which is destroying the standard of living of every American?

Mr. Chairman, the last time we considered a balanced budget amendment, in the summer of 1990, the House failed to adopt it by a mere seven votes. Since then more than a half a trillion dollars worth of additional debt has been placed on the backs of future generations because Congress continues spending more money than it takes in.

Indeed the last 2 years illustrate why only a constitutional amendment would solve our deficit problems. We have all heard the rhetoric about Congress needing to make the tough choices in order to balance the budget. That same rhetoric led us to the budget summit agreement in 1990, which was supposed to insure a balanced budget within 5 years and adoption of the largest tax increase in American history. Did making that tough choice work? Certainly not. The deficit is far higher today than on the day the agreement was passed. Already the largest item in the Federal budget is interest on our nearly $4 trillion debt, or a full 21 percent of our total Federal spending.

Mr. Chairman, we simply cannot tolerate $316 billion annual interest payments which buy us nothing at all. Interest on our national debt currently consumes more Federal dollars than even our national defense. Imagine how many jobs we could create if we had an additional $316 billion in investment capital available to our small businesses this year.

Without a balanced budget amendment, there is no constraint on the ability of Congress to overspend. By pushing the cost of present consumption into the future, Congress only buys short-term popularity for itself. In the long term, however, this overspending is putting America in hock to foreign investors who are financing much of our spending spree. Without a balanced budget amendment, we would be even more dependent on overseas investors. Can we afford to be sending a growing share of our capital to Tokyo, London, Berlin, and Riyadh?

My colleagues, let us adopt a balanced budget amendment and protect the independence of future generations of Americans.

Mr. OBEY. Mr. Chairman, I yield 5½ minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I rise in support of the Gephardt/Obey balanced budget amendment. The Gephardt amendment represents a step in the direction of fiscal sanity without setting up a prescription for deadlock and a frontal assault on Social Security. In short the Gephardt amendment is tough yet pragmatic and compassionate.

All across the Nation, people are expressing anger at the failure of the Government to make the tough choices. And we must spare our children and grandchildren the burden of a crushing debt.

The Stenholm amendment requires a supermajority to waive a balanced budget requirement. I worry deeply about that because in case of disaster we need to act quickly and decisively.

This is significant for California because we do have more than our share of natural disasters. In the past few years, California has seen some extraordinary disasters—powerful earthquakes in Coalinga and San Francisco, and a raging fire in Oakland. We were fortunate to be able to provide emergency relief with substantial votes. But, that does not mean it will always be the case. For example, after the Los Angeles crisis, the vote to rebuild Los Angeles was 244–162. Under Stenholm, 261 votes would have been needed to pass this critical emergency relief bill. As the noose tightens a supermajority will be tougher and tougher to get. Under the Stenholm amendment, California—or any other State affected by a severe drought, a flood or a hurricane—would need to muster not a mere majority but a supermajority. This is unfair, undemocratic, and dangerous.

Another point is that under Stenholm, it would be easier to cut funding than to raise revenues. For example, it is easier to cut funding for lung cancer research than to increase the tax on a pack of cigarettes. It is easier to cut out childhood immunization than to raise taxes on someone making $10 million a year.

This is not fair—plain and simple.

The Gephardt amendment protects Social Security from spending cuts. Social Security is one of the largest Federal programs, and a tempting target for budget cutters. But Social Security should be treated differently because it is different. It is a trust fund into which we pay our fair share and we expect the fund to be there when we retire. We do not expect it to be tampered with.

Families USA released a study yesterday that shows that if cuts were made on a pro rata basis, the Stenholm amendment would have a devastating effect on the elderly. According to this study, each California beneficiary would lose an average of $1,041 dollars in 1995. The State of California would lose $4.2 billion in Social Security payments in 1995 and that will hurt our seniors, 70 percent of whom earn less than $30,000 a year. And our California economy, which is already in trouble, will suffer as these billions which are now spent are taken out of the economy.

Gephardt would have a much more immediate impact than Stenholm because it moves us toward a lower deficit sooner. It pushes the President and Congress to begin the process immediately. And we can. The first steps toward eliminating the deficit are fairly obvious. For too long, we have been picking up the tab for the defense of our allies in Europe and Japan. It is time to bring those resources back home. Of the $150 billion we could save, we should devote a portion to deficit reduction—say $75 billion a year.

The next step is to attack overhead costs in all Federal departments. That can save about $30 billion per year.

Congress last considered a balanced budget amendment 2 years ago. I was among those who supported a statutory approach which called for an immediate submission of a balanced budget by the President and by Congress. At the time of that vote, the deficit figure was $153 billion. That figure represented a substantial reduction from the Reagan-era high of $221.2 billion, strongly indicating that the deficit was moving in a downward direction.

Now the deficit is $400 billion and interest on the debt is the fastest growing item in the budget. The statutory solution I supported never even passed the Senate.

We must act. The Gephardt proposal is responsible, is compassionate, is pragmatic, and correct.

Mr. Chairman, I urge its passage.

□ 1700

Mr. BARTON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. EDWARDS], the distinguished chairman of the Republican Policy Committee.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in very strong support of the Barton-Miller balanced budget amendment. As chairman of the House Republican Policy Committee, I am pleased that house Republicans have taken a position strongly supporting the Barton amendment as the best version of a balanced budget amendment being offered because it not only requires a balanced budget, but also requires the support of 60 percent of House Members in order to raise taxes. The most effective way to balance the budget is to cut spending, not raise taxes on the people.

Mr. Chairman, the deficit is out of control. We have a $400 billion deficit and pay $200 billion a year in interest. Unless we take drastic action now, action like amending the Constitution to prohibit budget deficits, we face the very real possibility of economic disaster.

The Barton-Miller amendment is the best version of a balanced budget amendment that this House can pass, because it attacks not just the budget deficit, but the cause of the deficit—too much Federal spending. With the Barton amendment in place, Congress will have no alternative except to cut spending or break the law. Borrowing will violate the Constitution, taxing will require approval of 60 percent of Congress. The only thing left is to cut spending intelligently.

A balanced budget amendment is not a new idea. Ten years ago, I helped lead the fight in the house for a balanced budget amendment, and we were very nearly successful. If we had passed a balanced budget amendment then, and abided by its restrictions, we would be operating under a balanced budget today and the national debt would be over a trillion and a half dollars lower. We should have done it then; we should do it now.

Some of the speakers today have expressed fear about tampering with the Constitution. The Constitution is a living document. It is meant to move and grow as the country faces new goals and challenges. This process represents democracy at its best. It involves us, as the representatives of the people, and, ultimately, it will involve the American people themselves, deciding whether they want their Constitution to require a balanced budget. It's a little arrogant of some of the speakers today to presume to know better than the American people. It's a little arrogant not to give the people a chance to have a voice. It's a little arrogant to presume that only Congress is smart enough to determine how and when the Constitution ought to be amended.

A balanced budget amendment that requires 60 percent majorities to increase taxes is a good idea. I think the American people agree. If they don't, nothing will happen. So to the opponents of this amendment I ask: What are you afraid of?

Support the Barton-Miller balanced budget amendment. Let us force this Congress to balance the budget by cutting spending and holding the line on taxes.

Mr. STENHOLM. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, out in Indiana there is a political philosopher called Abe Martin. One of the things Abe said was that "the Smith family, which dropped out of sight 6 weeks ago, was discovered yesterday living within its means."

That in essence is what this proposal requires of the Government. I want to emphasize "of the Government." Not of the Congress, not of the President, but of the Government.

One hears it said that a 60-percent vote would enable a minority of Members to call the tune on priorities. The minority can decide the priorities of this House; the Supreme Court can decide the priorities of this place?

Balderdash. The only thing the minority can keep the majority from doing under this amendment is borrowing money.

The President has proposed a budget for next year which would spend $1.5 trillion and collect $1.1 trillion.

Now, any fool can see that that is $400 billion too much spending, or $400 billion too little taxation.

□ 1710

So do not talk about balanced budgets. Talk about whether the Government can borrow. And the money the Government cannot borrow we cannot spend.

Now what would we do with $1.1 trillion. Of course, the alarm goes up. "We would cut Social Security." That is absurd. We could stop paying for Social Security benefits entirely and not reduce the current borrowing of the Government one penny because those are dedicated taxes that go into a trust fund and cannot be applied to the Federal funds budget where the red ink is flooding our futures.

No doubt the amendment would mean no appropriations to preserve Lawrence Welk's home, but it would not do away with payments for Lawrence Welk's retirement under Social Security.

The minority would have no control over the priorities, so long as the Government does what it is supposed to do. And that is, live within its means, not borrow.

I hear it said that the first thing to be cut would be social programs. That assertion is falsified by historic events. During the 1960's when the budget was nearly in balance, we had the greatest burst of social legislation since the 1930's. During the 1980's when deficits soared, we had an enormous curtailment of social programs.

The question is not whether you must borrow to cover social needs. The question is who has the most votes in

the Congress and who is in the White House to decide how to spend the money we have. I have been told several times at home, "You must be a conservative." My answer is, "no", I am not willing to spend that much. I list myself as a parsimonious progressive. I will not spend any more than we have to spend, but I will not squander it on star wars, when there are children who are hungry for food, and education, and civility in our country.

Opponents of the amendment insist that all government officials need is will power. One might just as well say, if we drive down the street in our car, we do not need a seatbelt. All we need is the will power to stay seated in case of a collision. Obviously, the frailty of human nature means that we do not have superhuman will power, and that is precisely why Ulysses, in "The Odyssey," imposed will power upon himself by lashing himself to the mast when he sailed past the sweet entreaties of the Isle of the Sirens. He lashed himself to the mast because he understood the frailty of human nature. That was a good example for a constitutional republican democracy.

An intelligent people will use its constitution as a countermeasure against its self-destructive impulses. A pony will eat himself to death if humans do not restrain him. And democracy will eat itself to death without thoughtful constitutional restraint.

Read my constitution. No new borrowing.

Mr. OBEY. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Texas [Mr. BROOKS], chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, House Joint Resolution 290 would propose an amendment to the Constitution that—it is claimed—will somehow magically create a balanced budget each and every year. The goal of a balanced budget enjoys nearly universal support in this Chamber. Unfortunately, I am convinced that this proposal, and the unfounded assumptions on which it is based, are doomed to failure. I would be less concerned—but still distressed—if in enacting House Joint Resolution 290, we were merely enshrining in the Constitution a feel good, benign statement of good intentions. However, every provision of the Constitution has meaning and power, and I fear that this one might produce a host of dangerous and unintended consequences.

Last Congress the House Judiciary Committee's Subcommittee on Economic and Commercial Law, which I chair, held extensive hearings on an earlier version of this proposal offered by Mr. STENHOLM in order to develop a record for an informed vote by the House. The subcommittee heard from a wide array of witnesses that included economists, constitutional experts, and budget officials spanning a number of administrations. The overwhelming majority, conservative and liberal alike, concluded that the proposal would likely lead either to manipulations of the budget process, thus breeding even more cynicism among the American public, or to paralysis in the most vital functions of Government and throughout the economy.

We heard from the current Director of the OMB, Richard Darman, who proudly proclaimed that "President Bush strongly supports passage of a balanced budget amendment to the Constitution." But, when asked why this amendment should not go into effect right away, he immediately began to backpedal, recommending against the dangers of such a precipitous step. Such a stance is consistent with the record of an administration that, along with its predecessor, has paid lip service to the bumper-sticker slogan of a balanced budget while at the same time adding more than $2 trillion to our national debt over the past 12 years.

No less than the Chairman of the Federal Reserve, Alan Greenspan, found that the lack of enforcement provisions in the proposal would create "a mess"—he warned us that the courts would eventually be drawn into the budgetmaking process if there were an impasse between the executive and legislative branches, as there inevitably would be. If that happened, would the American economy simply go on hold while we waited for the briefs to be written and footnoted? Would the capital markets simply suspend trading of stocks and the issuance of Treasury securities as time ticked away?

The real winners from this amendment will be those members of the minority who have always wanted to be in control of the legislative process without the necessity of gaining a majority at the polls. The amendment would require a three-fifths vote of the membership of each House of Congress to pass a resolution for total outlays to exceed total receipts, or to raise the public debt.

Turned around, this means that two-fifths of either House—40 percent—would have a hammerlock on the legislative process. They could extract any demands they wish to in order to permit vital legislation to go forward. Is it any wonder that all but a handful of the minority party in this House should embrace such a scheme? Passing this amendment would give the minority through the Constitution what the voters of this country have denied them at the ballot box for decades: Veto power over the legislative process. This is a cynical proposal, at best, and a raw power grab at most.

It is high time to get down to the business of sound government and sound budget policy. I urge my colleagues to reject House Joint Resolution 290, and to get serious about making hard choices on spending and the programs that truly deserve our tax dollars. We do not have the luxury of yet another illusion or deceptive fix when it comes to our economic future.

The CHAIRMAN. The gentleman from Texas [Mr. BARTON] has 2 minutes remaining.

Mr. BARTON of Texas. Mr. Chairman, I show that I have 12 minutes remaining. There has been a subtraction mistake.

The speakers that I have allocated were: The gentleman from New Jersey [Mr. SAXTON], who had 2 minutes; the gentleman from Washington [Mr. MILLER], who had 8 minutes; the gentleman from California [Mr. PACKARD], who had 2 minutes; the gentleman from Minnesota [Mr. RAMSTAD], who had 2 minutes; and the gentleman from Oklahoma [Mr. EDWARDS], who had 3 minutes. That is 17 minutes.

The CHAIRMAN. Our timekeeper advises me that maybe one of those was posted to another account. The gentleman does have 12 minutes remaining.

Mr. BARTON of Texas. Mr. Chairman, that is what I show also.

Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN], chief Democrat sponsor of the Barton-Tauzin-Miller amendment.

Mr. TAUZIN. Mr. Chairman, I rise in support of both the Barton-Tauzin amendment and, of course, the Stenholm amendment to the U.S. Constitution.

The previous speaker alluded to the fact that this process of debating and amending the Federal Constitution to require a Federal balanced budget was something like Monty Python's Flying Circus.

□ 1720

I would beg to differ. If there is a flying circus here, it is the three-ring budget process circus of the House, the Senate, and the White House, that has produced 23 years of unbalanced budgets in a row.

There are many in America who complain about that and say, "You guys are not carrying out your mandates when you come to Congress." Let me challenge that notion. I believe every Member of this House, every Member of the Senate, carries out his instructions when he gets here. The set of instructions we get elected on every 2 years, every 6 years over there, the set of instructions we get from our constituents is to go to Washington and bring back as many of those Federal dollars as we send to Washington, bring them back home, and do something good with them.

We carry out those instructions to a great degree. We do a great job. Every Member, in fact, I must congratulate them, does such a good job of bringing the bacon home that we are bringing back more pigs, unfortunately, than we

are sending to Washington in the form of taxes.

The bottom line is that for 23 years we have carried out that set of instructions well, excellently. What we need in America, very frankly, is a new set of instructions. This balanced budget amendment debate is nothing more, to boil it down, than a question of whether or not we are going to give to the American public a chance to give to Congress a new set of instructions.

What are those new set of instructions? Very simply put, "Quit spending money you do not have. Do what you can for us, defend us, give us good social programs, but do not spend money you do not have." That is a simple new set of instructions the Constitution would provide for us if we give to the people of the country a chance to vote on it.

Is that a worthwhile set of instructions? I guarantee the Members it is. Every child born in America is inheriting today a $16,000 mortgage when he is born in this great country. That is on the debt we are accumulating for those children. Should we not have a new set of instructions for those kids and grandkids and say to them, "We are going to begin balancing our accounts. We are going to begin, in fact, in this Federal system doing something different. We are going to start acting responsibly with the tax dollars we get."

The Constitution is a grant of powers to this country. It grants us two powers today. It grants us the power to spend within budget, and we have the power within the Constitution to spend over budget. The Constitution is a limiting document, and I suggest to all of the Members in this debate that if there is one limit missing in that Constitution, if there is one power that ought to be denied this Federal Government, it is the power to continue to put our children and our grandchildren so deeply in debt that they can never come out from it.

If a Member is a conservative in this body, he ought to vote for one of these two amendments, hopefully the Barton-Tauzin amendment, because it says, "Restrain your tax appetites and instead restrain your spending." I hope the Members vote for one of them. If a Member is a liberal and has watched the ability of this Federal Government to provide social programs to America dwindle as the interest on the Federal debt eats away at our capacity to do for our own people what we should be doing, then as a liberal one ought to join us in this simple new set of instructions to the Federal Government: "Quit spending money you do not have. Quit putting us in debt in America."

Mr. SMITH of Oregon. Mr. Chairman, I yield such time as he may consume to my friend, the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. Mr. Chairman, I rise in strong support of a balanced budget amendment.

The taxpayers of our country have waited years for Congress to bring the national debt under control. In repayment for their patience, the taxpayers have received only phony promises and all-too-real tax hikes. The time has come to face the fact that we will never balance the budget unless forced to do so.

This body has missed countless opportunities to make real headway toward a balanced budget. Instead of making the tough choices on spending, the House has opted for the easy way out—higher taxes and more borrowing. Well, the easy way is bankrupting our country. It is saddling our children and grandchildren with so horrible a debt that they may never be able to pay it off. And, we can no longer avoid taking a stand on this issue.

Those of us who have stood against the tax hikes and the pay raises, the absolutely ridiculous and absurd wastes of tax moneys, knew this day would come.

Mr. Chairman, we can no more avoid this vote than we can avoid the judgment of our children and grandchildren if we fail once again to act. I urge my colleagues to once and for all require Congress to live within the means of the Nation and approve the balanced budget amendment.

Mr. SMITH of Oregon. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Chairman, I rise in support of the balanced budget amendment. I want to commend my good friend, the gentleman from Texas [Mr. STENHOLM], for the work he has done. I support the balanced budget amendment.

Mr. Chairman, I rise in support of the balanced budget amendment and I want to commend Congressman STENHOLM for the work he has done to bring the issue before us today. It provides the strongest and most binding incentive for us to get the Government's ledger into balance. I think approving the balanced budget amendment will help ensure that Congress gives its fullest attention to cutting the deficit.

Thomas Jefferson expressed concern about deficit spending nearly 200 years ago when he wrote these words: "I wish it were possible to obtain a single amendment to the Constitution * * * taking from the Government the power of borrowing." He never could have imagined our situation today. In 1992, interest on the Federal debt will be more than $300 billion. That is more than we are spending on defense. We cannot afford to wait any longer to get Federal spending under control.

Approval of this amendment will not cure our fiscal problems. We are still going to have to make some tough decisions to balance the budget. But it will put into place a binding requirement that should start the process. In the past few years, we have passed budget laws designed to balance the budget, but they have not worked. This amendment to the Constitution will not be so easy to ignore.

Amending the Constitution is not an easy thing to do, nor should it be. The process was set up this way to make sure that only issues of great national importance would survive the congressional vote and ratification by the States. I think bringing the Federal budget into balance is such an issue and approving this amendment is a step we must take.

Mr. SMITH of Oregon. Mr. Chairman, I yield 4 minutes to the gentleman from Kansas, [Mr. ROBERTS] an outstanding Member of Congress.

Mr. ROBERTS. Mr. Chairman, the first question, I guess, is why are we doing this. Do we have a budget crisis? I looked it up in the dictionary, and Webster's defines the word "crisis" as "a decisive moment and crucial in a state of affairs in which radical change is demanded."

With a $400 billion deficit, a $4.1 trillion debt, and that is roughly $65,000 for every family of four in this country, and with Congress unable to control only one-third of our spending and with two-thirds off limits in entitlements, it is clear we have a crisis. With 61 cents of every income tax dollar paid today going to debt service, "crisis' may not be strong enough of a word, and it is a very tough and difficult challenge. I know that. The budget is complex, the needs of the country crucial, and the demands of the American people apparently insatiable. Everyone wants spending cut but not their program.

But, the answer is really basic and simple. We must live within our means. The crisis is now, the time to act is now, but when we ask the Members who oppose this amendment, we hear the cure is worse than the problem, because the problem is so serious. That just does not add up.

The majority leader put the blame for this fix on Republican Presidents, despite the fact that no President ever spent a dime that we did not first authorize and appropriate. Note I said "we." "We" does not include those of us who formed a small but determined band of fiscal conservatives, Democrat and Republican, who have consistently voted against the top dollar appropriation increase and supported freezes and cuts, only then to face arbitrary cuts mandated the Gramm-Rudman and the infamous budget agreement of 1990. That is the point. That is the point.

The gentleman from California [Mr. PANETTA], the esteemed chairman of the Committee on the Budget, and the gentleman from Kansas [Mr. SLATTERY], my friend and colleague who comes down from the reform mountain with tablets of stone and selective fiscal history, say, "This amendment is too simple. It ducks the tough issues and it will not work," now get this, get this, "because the spending bills pass by more than 60 percent anyway, and because two-thirds of the budget is off budget."

LEON, JIM, I know that. I have had the courage to vote "no." Because the majority cannot vote no on spending, our amendment will not work? What will work? Leadership for statutory enforcement? Is that the answer? That is what they have suggested. In the last

10 years we have had five enforcement mechanisms on the books. We have a 1974 budget requirement that we waive every foggy night around this place. This is enforcement? This is a joke. This is like saying. "The house is on fire, but shoot the firemen, because I am a pyromaniac." We cannot even decide when to adjourn around this place.

Mr. Chairman, I am reminded of the old farm couple out on the prairie who, with kids gone, took great solace in listening to the family's grandfather clock as it gently struck the hours late in the evening. One night the clock struck one, two, three, and then four, five, and six. Then the clock went to 9, 10, 11, and 12, and then, and then 13, whereupon the old man rose up straight in bed and said, "Great heavens, mother, wake up. It is later than it has even been before."

My colleagues, the Constitution has heretofore been amended to protect individual rights. With the next generation in danger of paying more than half of what they earn in taxes just to pay off the debt that this country and Congress is spending and accumulating, we are endangering their most precious right of all, their individual freedom. Let us protect the economic rights of the next generation and pass this amendment. It is indeed later than it has ever been before.

Mr. OBEY. Mr. Chairman, I yield myself 9 minutes.

Mr. Chairman, for as long as I have served in this House I have opposed the idea of a constitutional amendment to balance the budget for one very simple reason. When I look around this town and look around the House, I see as many people who remind me of Daffy Duck as I do Thomas Jefferson, and until I think the proportion gets a little better, I am a little reluctant to put the Constitution in the hands or at the mercy of modern-day Founding Fathers.

I recognize that the House has become so frustrated—and in fact I have become so frustrated—about the lack of progress on the deficit that I am willing to live under a constitutional provision which puts the moral force of the Constitution behind the principle of a balanced budget and fiscal sanity.

□ 1730

What I am not willing to do, however, is to, in the process, enshrine the principle of minority rule on the most important issues we deal with; namely, economic issues.

Frankly I think that any amendment before us today which calls itself the balanced budget amendment is actually parading under false advertising, because none of them do that. In fact, if you take a look at the principal amendment before us, the Stenholm amendment, I invite Members to show me one word in that constitutional amendment that cuts a dime off the deficit or cuts a dime off spending. It does not do any such thing. All it says is that if there is to be a deficit other than zero that the Congress will have to reach that judgment with 60 percent of its membership rather than a majority.

Now very frankly, those are the rules which now govern the Senate with respect to most budget actions. I would ask whether or not there is anything in the record of the other body that would recommend their results to us? Do we really think that we will make any progress by turning the House of Representatives into the U.S. Senate in terms of its rules? I doubt it very much.

And so what we have as an alternative in the Gephardt-Obey amendment is something which tries to be more real than the other options before us. Here is what I mean.

Under our proposal the President would be required to submit a budget every year which is in balance. The Congress would not be able to take the budget off zero deficit unless the President first requested that. And if the President requests it, then the House and Senate would have to approve the Presidential request by a constitutional majority of both Houses, not just a majority of those present and voting. So if there are nine Senators off running for President, tough, you still have to have 51 Members, a majority in order to take us off zero deficit.

Our amendment would also provide that in no year could the Congress actually spend more in any budget than the President himself recommended in his budget. That brings to center stage the fact that it is the White House which largely in our system of government determines spending levels anyway.

There are two facts which we ought to keep in mind in this debate. No. 1, no Congress going back to Harry Truman's time has ever changed any President's budget any more than 3 percent. Fact No. 2 is that in the last decade there has been only 1 year when the Congress has appropriated more money than the President asked for, and in the other 9 years we have appropriated less, some $20 billion less in total than the President has asked for.

So what we simply do is ratify in the Constitution what is fact in reality; namely, that the President will set the spending level and we will be able to debate priorities within that spending level.

The next thing our amendment does is to put Social Security off the table in terms of balancing the budget, because Social Security is running very hefty surpluses now, and we do not feel any need to revisit the decision made in the 1990 summit with respect to protecting Social Security.

The other provision in our proposal is that we suggest that we proceed to balance the budget in the here and now, not the hereafter. The Stenholm amendments says let us get there in 1998. What we say is let us put this principle in the Constitution immediately starting with the first year, after ratification, and we have a companion statute which would back it up with a specific set of actions which would be triggered in order to enforce it, to see to it that we did not depart from the targets.

In my view our amendment is really an antihypocrisy approach. This chart demonstrates what our problem is. The fact is the Government debt as a percentage of gross national product was declining since World War II. It was declining from 90 percent of our gross domestic product in 1948 down to 28 percent in 1980. Then what happened is that Ronald Reagan came into office, his policies were adopted—and the policies of his successor—and as Members can see, we then began going in the wrong direction again. So this is a problem which has only been created in the last decade because we are now back up to 55 percent of GNP.

I also would bring Members' attention to two other facts. The President says he is for a balanced budget, and yet he and his predecessor, Ronald Reagan, asked the Congress specifically to approve $1.9 trillion in additional deficits. So what he is simply saying is he now wants a proposal which will apply to every future President except George Bush even if he is elected for 4 more years. He would be the only President who would not have to live under what he is recommending for his successors, and I think that is a joke.

The second point I would make is this: The Secretary of the Treasury was on television this last weekend demanding that Congress pass a balanced budget, and yet today he was meeting with Republican members of my Foreign Aid Subcommittee trying to urge them to include in our aid bill a $500 million provision that would provide for debt relief for foreign countries. I find it odd that we are being told by the White House we have to balance the budget, we have to go into the Constitution to do it, and yet at the same time I am being told, for 3 years in a row now, I am being told that the White House may veto our bill because we do not spend enough money in the area of foreign aid.

So it seems to me that if Members want this White House to live under the rules which they are suggesting for everybody else what they would do is to adopt the Gephardt-Obey amendment. That is the amendment that is real. It is the amendment that makes us balance the budget starting here and now, not only in the hereafter, and it is the amendment that makes clear that unless the President of the United States is centrally involved that we

will not attack this problem successfully in any of our lifetimes.

I am perfectly willing to live under rules which allow the President to set the overall spending limit and allow Congress to debate the priorities. That is in fact what has happened anyway over the past 10 years, and I think our amendment reflects reality, and its gives us the best opportunity do something real. I would urge Members' support it when we vote on it tomorrow.

Mr. BARTON of Texas. Mr. Chairman, I yield myself my remaining 9 minutes.

Mr. Chairman, we are here today hopefully not to attack and talk about our past failures, but to begin to plan for the future and to try to protect that future.

I would point out that the amount of per capita debt that each man, woman, and child in this country owes today is a little over $16,000, and it is expected to rise to $20,000 by the year 1995.

□ 1740

If we do nothing by the year 2000, if one includes publicly held debt on-budget and off-budget and all the guarantees that the Federal Government is committed to, the average family of four in this country will owe $300,000 per family as their share of the total Federal debt. We need to do something about that.

There is general agreement that what we need is a balanced budget amendment to the Constitution. Hopefully, tomorrow afternoon about this time we will vote on a specific amendment with at least a two-thirds majority requiring the budget to be balanced.

The gentleman from New York [Mr. FISH] is going to offer an amendment constructed by the gentleman from Virginia [Mr. ALLEN] and the gentleman from Arizona [Mr. KYL] which says we should limit spending to a certain percent of GNP, and we should give the President explicit authority to use the line-item veto.

The gentleman from Wisconsin [Mr. OBEY] and the gentleman from Missouri [Mr. GEPHARDT] are going to offer an amendment which says we should balance the budget, but we should exempt Social Security when we are attempting to balance the budget.

The gentleman from Texas [Mr. STENHOLM] and the gentleman from Oregon [Mr. SMITH] are going to offer an amendment that says we should balance the budget. It would require a supermajority vote of 60 percent to borrow money, and a supermajority vote of 60 percent to raise the national debt ceiling, but the Stenholm-Smith amendment would only require a simple constitutional majority to raise taxes.

Finally, myself, and the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Washington [Mr. MILLER] are going to offer an amendment that has everything that is in Stenholm-Smith plus the supermajority 60 percent vote to raise taxes. Barton-Tauzin-Miller is the most balanced balanced budget amendment, and in my opinion, it is the best balanced budget amendment.

Since the principal difference between Stenholm-Smith and Barton-Tauzin-Miller is tax increases, let us talk specifically about the tax-increase provision. Under the current Tax Code, without any additional explicit tax increase, the natural progressivity in the Tax Code results in additional receipts every year. The percent increase is approximately one-eighth of 1 percent per year, or 2 percent over 10 years.

For the last 10 years, we have had additional receipts of $550 billion. For the last 5 years, we have had additional receipts of $285 billion. That is an average per year of $55.5 billion for the 10-year period, or $57 billion per year for the last 5 years.

The high year was $85 billion, between 1987 and 1986, and the low year was a $19 billion increase in receipts between 1981 and 1982.

So without any explicit increases in taxes, we are gaining additional revenues under the existing Tax Code. We have found that when we do explicitly raise taxes, we do not get deficit reduction. We get spending increases. For every dollar increase in taxes in the last 20 years, we have had expenditures go up $1.59.

So when people say that you have to raise taxes to balance the budget, that is simply not true. In fact, we have shown in the past, the previous most recent past, that we can reduce the deficit without raising taxes.

For example, when Gramm-Rudman was passed in 1986, the Federal budget deficit was $221 billion. The next 3 years when Gramm-Rudman was on the books in its basic, undiluted, unreconstituted form, the deficit went down the first year by $71 billion to $150 billion, and then for the next 2 years stayed there, with a deficit of $155 billion in 1988 and $154 billion in 1989.

During that timeframe, Federal spending increased at the rate of 3.2 percent a year, a drop of over 5 percent from its previous increase of 8.7 percent a year.

Gramm-Rudman was eventually changed, and the deficit began to go back up. But while it was on the books in its original form, deficits went down without raising taxes.

The Director of OMB, Mr. Richard Darman, when he testified before the Committee on the Budget several weeks ago on the balanced budget constitutional amendment, gave a series of charts and tables that showed that we could reduce the deficit, and ultimately eliminate the deficit, without raising taxes. Depending on what scenario you used, the budget would be balanced between 1998 and the year 2002.

The chart to my left shows that without touching Social Security, if you freeze domestic discretionary, and you allow the entitlement programs to go up at inflation plus population, that you save $390 billion by 1997. By the year 2002, you save over $2 trillion, without raising taxes. These savings are from the current baseline budget if no changes in current policy are implemented.

I do not think that we have to agree that Mr. Darman's suggestions are the only way to balance the budget. I do not think we have to agree that the assumptions in this report are necessarily the most realistic assumptions, but I think we should agree that the budget can be balanced without raising taxes. In fact, because there is such a concern about raising taxes in this country, many, many people, and many, many interest groups have come out in favor of Barton-Tauzin. The President of the United States, George Bush, sent a letter to the Congress today supporting Barton-Tauzin as his preference for a balanced budget amendment.

The original Stenholm amendment in 1986 had the Barton-Tauzin-Miller 60 percent requirement to increase taxes. Numerous groups around the country are supporting the Barton-Tauzin-Miller tax limitation balanced budget amendment as their preference including the National Tax Limitation Committee, National Federation of Independent Business, American Legislative Exchange Council, Associated Builders and Contractors, Citizens for a Sound Economy, U.S. Business and Industrial Council, Citizens Against Government Waste, Americans for a Balanced Budget, National Cattlemen's Association, U.S. Chamber of Commerce, American Farm Bureau, National Association of Manufacturers, Americans for Tax Reform, and the Free Congress. They all support Barton-Tauzin as their preference for a balanced budget amendment to the Constitution.

In a poll in Nation's Business in May 1992, 91 percent of the people said that they preferred the supermajority vote to raise taxes in a balanced budget amendment, and in that same poll, 70 percent said that they would oppose a balanced budget amendment that did not have such a tax increase provision included.

The National Taxpayers' Union, in a recent poll, showed that 78 percent of their respondents favored a tax limitation balanced budget amendment over the Stenholm amendment.

Finally, I would point out that in order to implement Stenholm-Smith, which itself requires a constitutional majority to raise taxes, we need to obtain a majority vote on Barton-Tauzin-

Miller tomorrow. Barton-Tauzin-Miller is identical to Stenholm in four of the eight sections. It is identical in all but minor terminology in seven of the eight sections. In only one section is there a major difference between Barton-Tauzin and Stenholm-Smith, and that is in the requirement that there be a 60-percent supermajority vote to raise taxes.

So I would hope that tomorrow we get a majority vote on Barton-Tauzin, and then on final passage, if Barton-Tauzin has not received a two-thirds vote, let us all strongly support the gentleman from Texas [Mr. STENHOLM], the gentleman from Oregon [Mr. SMITH], the gentleman from Delaware [Mr. CARPER], and the gentlewoman from Maine [Ms. SNOWE] on their amendment for the two-thirds vote required to pass a constitutional amendment.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I am happy to yield to the gentleman from California, the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding.

The danger I see here is what we call rosy scenario who always shows up again when we try to avoid tough decisions about deficit reduction.

Again, on the Darman proposal, we asked CBO to analyze the Darman proposals. If you use the highest growth level, which is 4 percent, and you add the cap plus demographics plus 2½ percent above that, at max you are talking about savings of about $120 billion to $125 billion. That leaves you $475 billion that you have got to find the deficit reduction. Even if you gave your numbers, which would leave you $300 billion short, the question you have to answer is: Where do you find the additional $300 billion or $400 billion? Where?

Mr. BARTON of Texas. Reclaiming my time, if I could respond to the distinguished Budget chairman, I understand the difficulty of the task. I am simply saying there are scenarios out there that show that we can do it. The chart, which the gentleman cannot see very well, unfortunately, to my left here shows that if we do nothing, we are never going to balance the budget under any scenario, and the gentleman himself has said on the record that a balanced budget amendment may be the only way, even though it is not his preferred way.

I simply say pick your number. You can change those numbers. The time line does extend the less rosy the scenario becomes, but it is possible, and we should do everything we can to balance the budget without raising taxes before we consider tax increases. Barton-Tauzin does not say you cannot raise taxes. It simply says to raise taxes above the rate of growth in the economy you have to have the same 60-percent vote as you would have under Smith-Stenholm to borrow money.

Mr. PANETTA. Mr. Chairman, the last time I heard that promise was in 1981, and the result was a $4 trillion debt.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTON] has expired.

Mr. SMITH of Oregon. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. SMITH of Oregon. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I am happy to yield to the gentleman from Oregon.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding. Because, you know, I understand the concern of the chairman of the Committee on the Budget when somebody challenges his numbers, and we are challenging his numbers.

The point is here he is relying on CBO, and as I recall, CBO has been off $65 billion every year since I have been here for 10 years.

□ 1750

So let us not identify the CBO as the authority on this issue.

Now, the question the gentleman asked that I think needs answering, if indeed it is $300 billion rather than $600 billion that the distinguished budget chairman has alluded to, then of course over the next 7 years we have with very conservative estimates of growth of the GDP, we have conservatively worked our way out of this without endangering Social Security and without raising taxes.

I hope the gentleman takes that as constructive.

Mr. PANETTA. Mr. Chairman, if the gentleman would yield, I take it as baloney.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTON] has expired.

Mr. SMITH of Oregon. Mr. Chairman, I yield 30 additional seconds to the gentleman from Texas.

Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Oregon.

Mr. SMITH of Oregon. Mr. Chairman, the first time I discussed this, the gentleman from California alluded to my honesty and now he is discussing my effort to add to this debate. I take umbrage at that, I say to my friend. It makes me very angry.

I am going to tell the gentleman this. I do not like for somebody to stand up and call me dishonest and then say that what I have to say is baloney.

I do not call the gentleman from California anything like that. I respect the gentleman. I respect what he has to say. I want the same thing from the gentleman to me.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTON] has again expired.

Mr. SMITH of Oregon. Mr. Chairman, I yield 15 additional seconds to the gentleman from Texas.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, this gentleman again has the highest respect for the gentleman from Oregon, believes he is sincere in what he is saying, but the gentleman is quoting a source that I believe is unfounded in terms of its honesty with regard to dealing with the deficit.

I honestly think that the gentleman is sincere about wanting to make some tough choices, but I think when we say to the American people that there is an easy way to do this, that we can grow our way out, that somehow there is no pain involved with doing any of this in terms of difficult reduction, we send the wrong message to the American people. That is the message they have been hearing during the eighties. It is the message they are hearing in the nineties, and until we say very directly to the American people that some sacrifice is going to be involved here, we are kidding them and we are kidding ourselves.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, H. Ross Perot, that name reverberates and rings across America because we in Congress cannot agree to work together on solving some of this Nation's critical problems.

This deficit, Mr. Chairman, we Democrats and Republicans, liberals and conservatives, the President and Congress, should all be working together to solve, and let me tell you why.

As this deficit eats up, getting close to 20 percent of the budget, that is money that is being taken away from discretionary spending that we can spend on immunizations for children, Head Start programs for children, or we can spend on tax credits to help our businesses, or we can spend it on a Marshall plan to rebuild America and help this country get competitive again; but we need to work together, and this Stenholm amendment to help balance the budget is a good approach. It is not perfect.

I would recommend that we modify it in terms of capital budgeting principles so that we can invest long term in infrastructure, on roads and bridges.

I would also encourage and implore the President to work with us on this. He has come close now to 25 vetoes, not one for spending too much money.

Finally, Mr. Chairman, I would say that I am a little skeptical about this,

although I am an original cosponsor, because we in the Congress need to have the courage and the willpower to vote for some of these cuts.

I led the fight on the space station. We got beat.

We tried to cut an additional four B-2 bombers. We got beat on that.

We tried across-the-board cuts of 2 and 3 percent on appropriation bills, and we got beat on those.

So we need to have the guts in this place to vote for cuts.

Finally, the American people need to be with us. As our distinguished chairman said, the Constitution should say on this balanced budget, not of, by and for the people, but with the people.

This is going to be painful. It is going to involve sacrifice. We need the help of the American people on this tough endeavor and we need to work together, our people, the Congress, the President, liberals, conservatives, Democrats, and Republicans.

Mr. OBEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Mr. Chairman, I rise in strong support of this constitutional amendment to balance the budget.

Mr. Chairman, the scare tactics that have been used lately in opposition to the balanced budget amendment have no basis in fact.

Fears have been expressed that the amendment would result in massive revenue increases. They're unfounded. There's no rational reason why deficit reduction under a constitutional amendment should encourage such increases any more than any other effort to reduce deficits. In fact, by finally getting these deficits down, the balanced budget amendment should eventually contribute to tax relief for overburdened taxpayers.

Concerns have also been expressed about the possibility of drastic cuts in domestic programs that are essential to the well-being of millions of Americans. This is not going to happen. An essential level of support for these programs will always be secure. This is the political reality. If an essential level of services can be maintained under statutory measures, there is no reason why it can't be done under the balanced budget amendment.

We will sooner or later have to consider more effective controls over the rising costs of entitlements if we are really serious about reducing the deficits. There are a number of things that can be done to achieve this. For example, we can enact a comprehensive health care reform plan that includes more cost-effective measures. Entitlements will have to be considered in any deficit reduction effort. But there is no validity to an argument that suggests we cannot reduce the deficits without depriving people of the essential services they now receive.

To suggest that the balanced budget amendment may be a threat to Social Security benefits is not true. How can anyone say this? The administration and Congress would never renege on Social Security commitments, and all of you know that.

It is ironic that some people who accepted statutory provisions such as Gramm-Rudman and pay-as-you-go as necessary mechanisms for addressing deficit spending and who, in some instances, criticized these measures as too weak, are now expressing alarm about the balanced budget amendment.

Frankly, I do not understand their logic. If it's possible to reduce the deficits in a responsible manner under statutory provisions, why would anyone suggest we cannot do the same under the Constitution?

If you agree the deficits are causing increasing economic hardships for us and our children and grandchildren, I urge you to vote for the amendment. It may be our last chance.

Mr. OBEY. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL], the distinguished chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, this is the most extraordinary legislative proposal that I have ever seen. It literally requires that the Government be run by a 60-percent vote. If things cannot be done in Washington now, until this amendment is adopted.

Now, a lot of my colleagues are marketing this as a balanced budget amendment. Do not believe that. That is a lot of hooey.

What this proposal is, is simply something which says that any time you want to spend money in this Government, you are going to have to get 60 percent of the vote, which means you cannot get it on partisan lines, so you are going to have to go to the sundry lobbies. You are going to have to go to the defense lobby. You are going to have to go to the antidefense lobby. You are going to have to go to the senior citizens lobby. You are going to have to go to the pharmaceutical or the agricultural lobby, or any other lobby that this country confronts as it goes through its legislative process.

Now, my colleagues are talking about this as something which is going to save the taxpayers money. Do not bet on it. What this literally means is that a $400 billion deficit is going to have to be eliminated. There are two ways to do so. The first way is by increasing taxes. The second way is by cutting expenditures.

Now, we can choose, if we decide to cut expenditures, to cut them 25 percent or thereabouts, across the board. That would make a very nice number, because that would mean that 25 percent of Social Security benefits will go out the window, and 25 percent of the people who are drawing Social Security might wind up losing their benefits entirely; 25 percent of Medicare will be cut and 25 percent of the people drawing benefits under Medicare may cease to draw their checks anymore, or alternatively everyone receiving Medicare may see their benefits reduced by 25 percent, if we choose that kind of mechanism to deal with the cuts.

Now, it may be that we will choose to do away with programs in their entirety. Let us take a look at that, because some of my colleagues who are marketing this as a great idea need to take a better look at the effects of their efforts.

We are going to be spending about $270 billion on defense. Wipe out the entirety of defense, and behold, we cannot balance the budget. Add to that Medicare and you would come fairly close to balancing the budget by wiping out those two programs.

Or wipe out Social Security. Then you could save about $320 billion. That will then assure you that you only have to find about another $80 billion to cut so that you can balance the budget and comply with this requirement.

Now, I do not think the people of this country are going to be satisfied with that result, but you should prepare yourselves for it.

So, some of my young colleagues who are down here talking about what a great idea it is to do this kind of thing, and some of my Republican colleagues over there who are talking about what a great idea it is better first of all understand that the due bills are coming in.

This legislation is going to impact you if it is ratified by the States by seeing to it that you are ratified right out of a job.

Now, having said those things and having warned you about its likely impact, let me add a few other little things. We talked about how poorly Congress is working now. Well, if you have got to get a 60-percent vote to run this institution, imagine how much harder it is going to be to get anything accomplished. You will be converting the House into something very much like the Senate, where everything has to be done virtually by unanimous consent, not by 60 percent. And that is going to be the consequence practically that you confront here.

Social Security is at great risk. Instead now of subsidizing Government to the amount of about $43 billion a year, as Social Security does, you are going to find that Social Security will be compelled to subsidize Government significantly more. What does this mean? Withholding COLA's, the cost of living for Social Security retirees will not be available.

I hope, by the way, that some of my colleagues who are pushing for this will go home and explain that to their voters. And I hope that they are here to explain it also when it happens, because I would like to be here to listen and to enjoy those comments.

□ 1800

This discussion is fiscally irresponsible. This is silly. The problem with voting for a balanced budget is not that anyone here is reluctant to do so; the problem is that nobody here has ever seen a balanced budget submitted to the Congress.

Mr. Bush and Mr. Reagan have been here and said great things about how they were going to balance the budget. Mr. Reagan was going to do it by 1984. Never did, never submitted one.

Mr. Bush is down there saying, "Save me before I submit another unbalanced budget." But last night he got this proposal changed so that it does not affect Mr. Bush during his tenure; an interesting thought.

Now let us look a little further at what this is going to do to the Government. Are you prepared to tell me what you are going to do when we wipe out 25 percent of the Army, or the Navy, or the Air Force? Or what we are going to do when we close 25 percent of the prisons and throw 25 percent of the criminals out on the street? Or when we reduce drug enforcement efforts by 25 percent? That is what this will require. Or it may require the termination of the program in its entirety. It may also require increasing taxes to the amount of about $400 billion.

I think this is a poorly thought out, ill conceived, dangerous proposal. It is one which affords real thought. It also is going to have the practical effect of going a long way toward putting the courts in control of his country. Ambiguities in this legislation are going to be dealt with in the courts. And if you like the idea of the courts ordering tax increases or ordering expenditure curtailments, or some other activity repugnant to the people, then look forward to it happening if this amendment is adopted.

Mr. Chairman, I favor balanced budgets, and, like the Congress over the past 12 years, have voted to cut Mr. Reagan's and Mr. Bush's budgets in 11 out of 12 years by as much as $49 billion.

But this is no way to eliminate unbalanced budgets.

This is one of the worst pieces of legislative flimflam that I have seen in my years in the Congress.

There is nothing to prevent President Bush or President Reagan from submitting a balanced budget. They have never done so in their 12 years in office. Was it a result of a recognition of the real or political impossibility of doing so?

The harsh fact is that the proponents of this proposal have never come forward with a balanced budget.

The Congress has cut the Reagan-Bush budgets every year of the 12 that they have been in office save 1, and the last 2 fiscal years by $18 billion and $9 billion, respectively.

Does this proposal balance the budget?

No; it simply requires a three-fifths or 60 percent late in the Congress to unbalance the budget.

Does it require the President to submit a balanced budget? Not really. He can, as he often has these 12 years of Reaganomics, submit budgets based on inaccurate economic forecasts, resulting in clearly inaccurate estimates of income, expenses, and deficits.

This constitutional amendment is an accountant's delight, and a citizen's nightmare. It demands gimmickry and games, and apart from being a gimmick itself, it invites budgetary self-deceit and falsehood in budgeting.

Let's look at the facts. In fiscal 1993, the Bush budget will have expenditures of $1.5 trillion; it will have a deficit of $400 billion.

Some major catagories of expenditure:

Social Security—$324 billion.

Defense—$292 billion.

Discretionary expenditure—$225 billion.

Medicare—$130 billion.

Medicaid—$84.5 billion.

Administration of Justice—$15.3 billion.

Drug Enforcement Administration—$788 million.

Energy—$6.2 billion.

Education and social services—$50 billion.

Transportation—$35.5 billion.

Environment—$21 billion.

What are our options if this passes?

First, cut programs either by wiping out whole programs or by across-the-board cuts.

Let's look first at some of the programs we would cut.

For the sake of argument, let's assume that two-thirds of the savings needed to balance the budget will come from spending cuts, and one-third from tax increases.

Now let's start listing some of the $360 billion in spending cuts which the House Budget Committee estimates would be necessary to achieve a balanced budget.

They would include:

Eliminating small business loans and grants—$2.4 billion.

Reduce highway, mass transit, and airport improvements—$19 billion.

Reducing cancer research—$4 billion.

Reducing a host of Federal housing programs—$4 billion.

Eliminating campus aid and other education programs—$16 billion.

Reducing veterans medical care—$3 billion.

Cutting drug enforcement and prison construction programs—$2 billion.

Canceling the space station—$9.7 billion.

Reducing scientific research—$4.5 billion.

Reducing funding for environmental cleanup—$2.5 billion.

Cutting international spending—$3.5 billion.

All told, that will save us about $68.5 billion.

Now we can start cutting entitlement spending by:

Cutting farm support program funding and adding a few user fees—$17 billion.

Cutting $6.6 billion from direct student loans.

Eliminating cost-of-living adjustments for civilian and military retirees—$10 billion.

Cutting assorted veterans pension, health, and housing benefits—$13 billion.

Limiting funding for foster care—$1.2 billion.

Reducing the number of children qualifying for nutrition programs—$5.7 billion.

Adding these savings to our previous savings, we've achieved about $122 billion of our $360 billion total in spending cuts.

Now let's look at health care cuts.

We can add a whole host of Medicaid and Medicare cuts to hospitals, doctors, and nurses—$34 billion. These costs will be passed onto other patients, but the Government won't have to worry about them any more.

Next we can require copayments for lab services, home health care, etc.—$17 billion.

This will bring us almost half way to our spending cut goal. As you can tell, many more hard cuts will be necessary.

So let's add a whole range of user fees. They'll include, but not be limited to recreational boaters and National Park Service patrons—who else can afford the costs of Smithsonian Museum operations, and White House tours; radio broadcasters for the use of the spectrum; air travelers to finance the cost of air traffic controllers, and customs inspectors; and taxpayers for the processing of their income tax forms, and so forth.

Then we can decrease the percentage of Federal funding provided to State and local governments through matching fund programs. That will cut out billions for health, human service, and environmental programs that the Federal Government now assists the States in paying.

Lastly, we can create all sorts of accounting gimmicks to help us achieve a balanced budget. There is no limit to our collective creativity in finding ways to get around this or any other budget statute, law, or amendment.

We have a whole range of options to choose from for achieving the necessary revenue increases to generate one-third of the total costs of deficit reduction—they include imposing a 4.5-percent value-added tax, or raising individual income tax brackets.

Or, if you don't like those choices, let's look at some others.

We can wipe out 100 percent of Social Security, saving $324 billion.

All we have to wipe out is half of Medicare and we have a balanced budget. How many of the Members of this body will support this? Not many.

Another option: Wipe out discretionary expenditures for Federal civilian programs. That saves $225 billion. Environment, courts, justice adminis-

tration, agriculture, roads and highways, capital investment, unemployment, education and health programs, and others are all wiped out. The budget is not balanced.

If we add to this income security program constituting $197 billion we have balanced the budget, but at enormous social cost.

Elimination of other programs or combinations offers other unappetizing choices. Let's talk of eliminating defense. This gives us a saving of $292 billion. The budget is not balanced. Other programs must still be cut to the amount of $108 billion.

We can now proceed to eliminate transportation—$35.5 billion and health programs—$31 billion. This still does not balance the budget, but it produces enormous social costs.

Let's look at the possibility of an across-the-board cut. A $400 billion cut to eliminate the deficit, is about a 26.66-percent cut in all Government programs.

Let's round that off to a 25-percent cut.

Social Security—cut 25 percent: Either one out of every four recipients is dropped from the rolls or every recipient loses 25 percent of his or her benefits.

Medicare—cut 25 percent: one in four loses coverage or all recipients lose 25 percent of their benefits.

NIH cuts—25 percent off research programs, including heart, stroke, cancer, and AIDS.

Administration of Justice—Some useful examples of a 25 percent cut: A 25-percent layoff of FBI and Drug Enforcement Administration personnel; 25 percent of prisons closed; 25 percent of prisoners released.

Defense—25 percent of military personnel discharged; 25 percent of aircraft, ships, tanks, and planes sold or laid up.

Transportation—25 percent of air traffic controllers laid off; 25 percent of expenditures for noise control, air traffic and air safety terminated.

Or, a tax rise of 26.6 percent laid on every American citizen, every American corporation, and every activity subject to tax.

Some of the other consequences of this unfortunate proposal:

States and local units of government, now struggling with greater demands for services, because of the economic downturn will find that the Federal Government will reduce support for Federal-State programs.

States will also find more and more federally mandated programs will be coming their way with less and less Federal financial support for mandated programs.

Thus, the burden of cost will shift to State and local government budgets.

Courts will be more and more injected into the business of enforcing a vague and unclear constitutional amendment. The result, possible if not probable court intrusion into legislative functions, including taxes, expenditures, budgeting, and appropriations of funds.

The Stenholm proposal should be rejected as dangerous and unwise.

Mr. FISH. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. I thank the gentleman for yielding this time to me.

Mr. Chairman, ladies and gentlemen of the House, before us we do have a monumental time, a monumental decision, a decision that there are many, many naysayers out there saying—making a good argument saying, "This can't work, it is not going to work, we can't do it, we don't have the discipline to do it."

Well, let me tell you I spent several years in the Illinois General Assembly being a minority and carrying a budget, a budget that certainly paled in comparison to the size of the budget that we carry in this Congress.

That was just tens of billions of dollars, not trillions of dollars. But we had a balanced budget in the Constitution in the State of Illinois. Yes, most of those budgets that we got were not in balance and the budgets, by the time they passed out of the House of Representatives and the Illinois Senate, were not in balance either because they were loaded up. But because we had a balanced budget amendment as a policy, as a constitutional law, then we had to come through and line item by line item by line item, a tedious, arduous matter, dirty work, and cut out extraneous spending in that budget, and by the time that budget went back to the legislature for ratification, there were certain veto actions here and there and overrides of vetoes threatened. But every year we came out with a balanced budget. Why? Because we had it in the constitution as a policy, and we used line item and rescission, reduction, veto to get that budget done where we could live with it.

So there are two parts to this story, neither one of them is very pleasant. Neither one of them makes a legislator or a congressman's job easier. First there is the determination to come out with a budget that is balanced, come out with a mandate as to what the American people say this Congress should do. And we have not done it for 40 or 50 years. It has been easy to add on, to give away, to say, "Yes, this is a good project, we will do it," and sometimes not just hundreds of thousands of dollars or millions of dollars, but billions of dollars.

The previous speaker was absolutely right, this Congress is going to have to say "no" if we adopt a balanced budget amendment as an amendment to the Constitution. I am sure, as 43 States already have it in this United States, the people will ratify it, the States will ratify it. And it will not be an easy time, but I do not think people elect us to be in this body and have an easy time. As a Member who has been here for 6 years and has called for a balanced budget amendment and a line-item veto as the tool that gets us down to the level that we need to have, I think it is time that this Congress acts. It is not only time, this Congress is responsible. It is time that the American people get responsibility from this Congress.

It is truly a sad day in American politics when opponents of a balanced Federal budget have to resort to distortions and scare tactics in an attempt to influence public policy.

Families USA, a liberal special interest group, recently released a study which mistakenly reported that Social Security and Medicare would be cut as part of Congress' efforts to enforce the balanced budget amendment, which will likely pass in this House tomorrow.

That is simply untrue. Social Security is supported by a separate trust fund and is self-financing. It would not be affected by the passage of a balanced budget amendment.

Medicare enjoys wide support among members of Congress, as well as the American public. It would also not be one of the areas targeted by the balanced budget amendment.

No one has ever suggested that our Federal budget be balanced on the backs of seniors. Clearly, Social Security and Medicare are two of the most widely supported national programs, by both Congress and the American people.

But what is not supported by the American people, and what should be cut by enforcing a balanced budget amendment, is the billions in taxpayer dollars that are squandered every year by wasteful government programs.

Citizens Against Government Waste, a nonpartisan watchdog group, has issued a list of 538 recommendations to eliminate wasteful spending, with savings of $167 billion in 1 year and $922 billion over 5 years.

We can balance the budget simply by cutting waste. We don't need to increase the burden placed on American taxpayers, who are already paying more and more taxes every year just to finance interest payments on the national debt. The deficit isn't a revenue problem. It's a spending problem. By controlling spending through the adoption of a balanced budget amendment, we can really do what's necessary to bring some badly needed fiscal accountability back to our budget process.

Mr. Chairman, it is essential that we get America's fiscal house in order. The Nation's accumulated Federal debt is now approximately $4 trillion. Since 1982 the annual deficit has fluctuated between a low of $128 billion to a current estimated deficit for this fiscal year of a round $399.4 billion. As evidenced by these figures, the inability of Congress to bring spending under control becomes increasingly difficult as the total debt grows. Thus, to maintain fiscal responsibility and to relieve the American taxpayer of increasing tax burdens, it is imperative that we pass the balanced budget amendment to the Constitution.

Moreover, in the last decade, Congress has passed five statutes to control the deficit. However, despite these laws, Congress has

failed to balance the budget. Obviously, our current budget enforcement laws are insufficient to provide the fiscal discipline necessary to accomplish this important task.

Most importantly, however, a balanced budget amendment is necessary to help put our economy back on track. The Federal deficit is drain on the economy discouraging investment and causing a decline in consumer confidence and spending. Limiting spending will stimulate economic growth, provide industries with enough capital to compete in the global economy and generate new jobs. Additionally, contrary to allegations expressed by the opposition, there is plenty of room to cut Federal spending in the budget without endangering essential programs under the balanced budget amendment. For example, Citizens Against Government Waste, a nonpartisan watchdog group, has issued a list of 538 recommendations to eliminate wasteful spending, with savings of $167 billion in 1 year and $922 billion over 5 years. In short, Congress can balance the budget simply by cutting the waste that currently exists in government.

In summary, the Balanced Budget Amendment will require Congress to make choices and set priorities about Government programs and related spending. Indeed, that is what we are elected to do and it is time that we do it. It is time to bring fiscal accountability back to our budget process.

Mr. FISH. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. I thank my colleague for yielding this time to me.

Mr. Chairman, today we consider an amendment to the Constitution. This is something which we cannot take lightly for we stand before the eyes of history alongside our Founding Fathers.

It is very serious business.

We need not wonder what Jefferson, Hamilton, Madison, and the others would say to us today for we have their writings to guide us. They remind us that Washington was to be the seat of a limited Federal Government and not the lair of the bureaucratic behemoth it is today. They remind us that a government cannot long survive if it lives beyond its means. They would remind us of the evils and corruptions of excessive debt.

These may seem like old fashioned ideas to some. But given the way Congress has operated for the last several decades, they are new and radical ideas indeed. And if we are to control our close to $4 trillion debt and $400 billion deficit, we need to radically change the way we do the Nation's business.

People want their government to be more responsive. They want government to operate at a more human level, with greater efficiency, higher performance and lesser cost.

The balanced budget amendment to the Constitution, at once, sets the goal and provides the discipline. But, actually meeting that goal will be much harder.

I would like to talk a little about how we might get there.

First, we will have to fight the urge to continue as a status quo Congress; a Congress whose basic thrust has been the expansion of government power, resulting in record debt—not the record expansion of jobs and economic opportunity which should be our goal.

That is why we are here today.

Our goal has to be to stem our downward slide into the unproductive welfare state and, at the same time, focus anew on economic growth and productivity.

Innovation, job creation, entrepreneurship, low taxes, and a far better working, better managed Federal administrative structure involving the millions of Federal employees is what this Congress should be striving for as it seeks a balanced budget.

Discipline alone, while terribly important, will not do it all.

Economic growth is essential to budget balance but by itself is not enough. No, if we want to minimize deep program cuts and sharp tax increases, there is something else we need as well.

Government cannot continue in its present inefficient, ineffective and expensive form. We have got the welfare state and it is just not working.

We need a different approach to business as usual. A new way of working and managing work must be borrowed from private sector experience and must begin to be applied to government. We have all seen it back home in our congressional districts.

The good news is that great strides in productivity, competitiveness, and cost reduction have been achieved by employers and employees of American companies when they changed from their old style of doing things to new and better ways.

Global competition abroad and in our backyard forced them to do it. But government does not face such competition. That is why we need the hard and fast limits on spending which a balanced budget amendment would provide. But we will also need to get so much more for our tax dollars without massive deficit spending.

I am talking about empowering our people at every level in our Federal Government with the education and training, the responsibility and the authority to become important players on teams, with far greater responsibility for their work, and at the same time become their own best managers.

Our American workers, given the opportunity, can be our secret weapon to make government work better and cheaper.

The results of such a strategy in the private sector worldwide are phenomenal. Performance rises and costs come down. Quality goes up.

This revolutionary way of management and work has turned around U.S. companies from the near dead to become leaders in their field.

I realize the public sector is not the same as the private but it can happen in government too. Indeed, it has started and we have a tremendous responsibility here in Congress to help it to go forward, to accelerate it.

Pioneers in this human resources revolution like W. Edwards Deming, Joseph Juran, Armand V. Feigenbaum, and others are working with unsung pioneers in Government agencies, health care and education to help make it happen.

Our responsibility is to help them succeed.

If the whole country of Japan could rise from the ashes and prosper from this work and management revolution; if Ford Motors, Xerox, Motorola, and others could turn from near extinction to be competitive with the best in the world; if thousands of American companies can reduce their costs of business while increasing quality at the same time, so can government.

It is called total quality; it is a workplace revolution; it is a transformation of management behavior from one of dictating to one of teamwork; it allows individual workers to live up to their God-given potential; and it is time we seriously applied it to the work of government. It's time for us, the leaders of our country, to make the commitment to this better way. We owe it to the American people and we owe it to ourselves.

Lord knows we must try. We must give those brave souls in our DOD, Interior Department, Social Security Administration, GSA, VA, IRS, and so many other places, where beachheads of total quality are established, our support.

They can help us arrive at a balanced budget.

That means changing business as usual around here. That means rethinking the way we legislate, regulate, tax and spend, to minimize our costs of doing business so as to optimize the positive impact on our ultimate customers—the American people.

We need to rethink our relationship with the entire Federal work force.

Given the enormous impact of the Federal Government on our lives—$1.6 trillion annually—going in this new direction of total quality will provide a positive stimulus to workers in the public sector and our overall economy will do better as well.

Economic growth will be greater and the resulting added tax revenues will help us to balance our budget.

Without overhauling our business as usual approach and making it far more productive, getting from here to there could be much more difficult than anyone imagines.

A balanced budget is not going to be easy to achieve. Indeed, the easy part is our vote today. But to my colleagues I offer a roadmap and a way to help us get there.

We have got to rethink our roles and the impact of our actions. If we do not change our ways, the amendment will not work.

If we take the time to learn from our constituents on this issue, from companies in our district who have survived and prospered in the face of relentless competition, we have a chance to achieve some of what they have achieved.

They can help us—they can point out the better ways from their experiences; they can show us how they reduced waste and turned problems into profit; they can point out the obstacles to employee participation and teamwork and how they removed them; they can point to the insanities in our rules and regulations which drive up the cost of government and drive down individual initiative, innovation, invention, and economic growth.

The good news is that some people in some government agencies have started. The bad news is that top leadership and Congress are barely aware of what's happening.

Mr. Chairman, in the coming weeks I will be proposing legislation to establish a bipartisan Congressional Commission on Total Quality Government, whose goal will be to get the Congress to first become aware of the potential cost savings that such a new approach could bring to government and then make recommendations to do what the private sector is doing—reducing costs while simultaneously increasing productivity, quality of goods and services and employees.

Applying total quality when we legislate and regulate, indeed, including our own congressional systems, will save tens of billions of dollars and maybe a lot more.

It is not the silver bullet—there is no such thing. There are only small steps forward over extended periods of time. That is not Congress' way but that is the reality of human progress.

This is the kind of new thinking, new direction and bold action that can help us to achieve needed changes in the way we do business in order to get to a balanced budget.

I would say to my colleagues that by our actions today we take a historic stop, a revolutionary step. In order to fulfill the promise of that step to the American people, in order not to set the stage for massive dislocation or equally massive disappointment, we cannot do what we have been doing all along.

We can do it differently; the experience is there. It is our responsibility to apply it to ourselves and to our Government.

Let us go down this road together with a modus operandi that shifts away from business as usual. The first step is to vote for a balanced budget amendment. The second, third, fourth, fifth, et cetera is to make the tough moves to make a balanced budget a reality.

□ 1810

Mr. SMITH of Oregon. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER], a strong supporter of the balanced budget amendment.

Mr. BALLENGER. Mr. Chairman, I would just like to say the balanced budget amendment should be passed.

All day long we have all heard scaremongers and naysayers declaring it will not work, it cannot be done, we should leave the budget and appropriation decisions to Congress. We have had years to accomplish fiscal responsibility and have failed completely. The political will and honesty have not been there. This amendment is needed to give us the backbone to make the tough decisions to cut when necessary and freeze where possible.

Who are the naysayers—those who think their special interests may be hurt? Unions, the AARP, and others who feed at the public trough. The scaremongers are using Social Security as the issue to kill this effort. It does not need to be cut, we merely need to stop overspending. Each year our Government has more income, let income growth do it. Still, everyone must make some sacrifices if we are to end this fiscal insanity.

Can it be done, certainly! Like the gentleman from Illinois, I served in the North Carolina Legislature in 1974–75 during a previous recession. We were mandated to have a balanced budget and so we cut our budget by 9 percent, not by billions but by millions but it was just as difficult. We cut it again the next year by the same percentage. The world did not come to an end and later North Carolina prospered.

For 30 years now Congress has continued to spend more than our income. Presidents have tried to stop the bleeding but Congress wouldn't listen and continued to spend like a drunken sailor.

I wonder what would be the deficit now if (Presidents Reagan and Bush) had gotten the cuts they were promised—but this body failed to deliver.

A good balanced budget amendment must be passed. By good I mean the Kyl-Allen amendment which would limit Federal spending to 19 percent of GNP. This spending limit eliminates the need to raise taxes and gives Congress incentive to enact pro-growth economic policies. In addition, I plan on supporting the Barton proposal that is similar to Stenholm, except that it requires a three-fifths rollcall majority of each House to pass a tax increase. This proposal recognizes that a balanced budget can be achieved by limiting the growth of government spending, rather than through increasing taxation.

The Stenholm amendment is our last chance to win passage of a balanced budget amendment. Under Stenholm, the President would have to propose and the Congress adopt a balanced budget. This could only be changed if three-fifths of both Houses agree, to unbalance the budget for a particular year. The bill also requires a majority vote in favor of a tax increase. The proposal makes it much more difficult to raise taxes than it is today and much easier to restrain spending. This amendment, of all the ones considered today has the greatest bipartisan support and stands the only chance of becoming law. It has got my vote.

If Congress passes a balanced budget amendment with a two-third vote in each Chamber, and if three-fourths of the States ratify it within the next 2 years, Congress could be required to balance its budget by fiscal year 1998. However, there is plenty of time between now and then to reduce spending. The Congressional Budget Office has named more than 160 programs that Congress could cut. Also, the Heritage Foundation found deficit reduction measures totaling almost $680 billion over 5 years.

The growing Federal debt is our most pressing problem facing our Nation. Public opinion polls indicate overwhelming support for solving this problem through the adoption of a balanced budget amendment to the Constitution. The Stenholm amendment offers the only chance to bring real reform to the system and follow the will of the American people.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I rise in opposition to House Joint Resolution 290, the balanced budget constitutional amendment introduced by the gentleman from Texas [Mr. STENHOLM]. The constitutional amendment offered would prohibit outlays from exceeding receipts, in any fiscal year, unless three-fifths of the Members of the House voted otherwise.

This amendment is one of the most important measures to be considered by the Congress. It would permanently alter the Constitution, affecting the American economy and the viability of our Nation for decades.

The issue before us is a critical one. We have wrestled with a ballooning budget deficit for more than a decade. And, thus far, we have lost. In some respects, global changes have made it possible for us to reexamine our Federal budget policies, unfortunately a variety of economic pressures have frustrated our efforts to get our economy moving again. The national debt has tripled in the last 10 years, and currently exceeds $3.5 trillion. The interest payments on this debt are the fastest growing item in the Federal budget, leaving fewer resources for the purchase of goods and services. At the current rate, the House Budget Committee suggests that, by the year 2001, the national debt could reach $5.1 tril-

lion, taking it over the threshold of 50 percent of GNP. A significant portion of this debt was acquired during the Reagan-Bush administrations, when spending for defense reached record highs.

As a general matter, I agree that immediate steps must be taken to constrain a renegade budget deficit, a deficit which defies fiscal prudence and which dangles the very future of our Nation before us as hostage. However, adoption of Housing Joint Resolution 290 is not the way to bring this deficit under control.

A primary disadvantage of House Joint Resolution 290 is that it would require the Federal courts to enforce its provisions if there were a violation. Involvement of the courts in the budget process would amount to an abdication of the responsibilities given to Congress as the primary budgetmakers and elected representatives of the people, as set forth in the Constitution under article I, section 8. Specifically, article I provides that "the Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence [sic] and general welfare of the United States * * *"

As David S. Broder noted in an article appearing in the June 7, 1992, edition of the Washington Post, titled "Dinking Around With the Constitution," this amendment errs on the side of danger by bringing "the Supreme Court into the annual budget debates as the only body that could judge between the President and Congress on whether the terms of the fiscal contract have been met." He adds that "unelected officials should not supplant Presidents and Members of Congress in making essentially political decisions on taxes and spending."

In addition to these concerns, such an amendment severely restricts the ability of Congress to respond to unexpected requirements for supplemental expenditures. We saw such emergencies arise recently with the Persian Gulf conflict, increased unemployment attributable to the recession, the Los Angeles riots, and the Chicago flooding disaster.

Finally, this amendment would require that the budget be balanced on the backs of those who can least afford to bear the burden: the elderly, poor, unemployed, and students in our schools and colleges. Housing, Medicare, Social Security, student aid, and veterans programs all would be subject to reductions under this proposal.

Mr. Chairman, our Nation does not need a constitutional balanced budget amendment which is basically a knee-jerk substitute for fiscal responsibility. This is no time for gimmicks. This is a time for guts. It is a time for leadership and a national commitment to put an effective cap, not an imaginary one, on our exploding national debt. The American people want, need, and most importantly deserve nothing less.

For all of these reasons, I urge my colleagues to join me in defeating House Joint Resolution 290.

□ 1820

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. Mr. Chairman, I rise in support of H.R. 290, and I thank my good friend, the gentleman from Texas [Mr. STENHOLM], for offering the amendment.

Mr. Chairman, in northern New England, in States like New Hampshire where I am from, we like our boiled lobsters with drawn butter. There are two ways to cook them. One is the right way and the other is the wrong way.

The right way is to put him into cool water. You turn the heat up, and the lobster settles in. As the water warms up, it lulls it into thinking nothing bad is going to happen, and pretty soon the water boils and it is cooked.

The wrong way is to take that live lobster drop it into hot water, and it flaps and spreads its claws and spreads its tail and jumps right out of that hot water, getting hot water all over you and all over the kitchen and not accomplishing cooking your lobster.

I think the United States has been the lobster in the cool water with the temperature slowly rising. We for these past 20 years have not been paying attention to our fiscal responsibilities, and they have increased in temperature, increased in severity, until now where we see ourselves in a position where our fate is going to be cooked.

This balanced budget amendment is not an iron pot with a secure lid. I think that we are going to be able to get out of this if we have dire difficulties. It is not a perfect amendment, but I think what it does is let us know that we have to take the time right now to act fiscally responsibly and to do the things that we need to do to change the way that we budget ourselves.

Mr. Chairman, we need a capital expenditure budget. We need an operating budget. We need to look at each and every one of the line items. Maybe we do not take 25 percent out of everything. Maybe we shift our spending in ways.

I think that we as Republicans and Democrats can work together on this, but we need some kind of signal that is going to put us to work on doing what is fiscally and responsibly correct.

Mr. Chairman, Ben Franklin at the close of the Constitutional Convention said that he voted for the Constitution not because it was perfect, but because it was the best that they could do. I think that the constitutional amendment to balance the budget is the best that we can do right now, and I ask my colleagues to support that amendment.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, when I launched my support for a balanced budget amendment to the Constitution 10 years ago, the national debt stood at approximately $1 trillion. Today, America is almost $4 trillion in debt to creditors around the world and there is no end in sight.

If Congress had approved the resolution in 1982, it would probably have been ratified by the end of the decade. We would today be working with budgets in which our spending would be tied to our revenues. As it is, the President and Congress has this year adopted a fiscal 1993 budget with a $400 billion deficit.

I will vote for passage of a balanced budget amendment this year as I have in the past. But, regardless of the outcome, this vote should not remove budget balancing from the immediate congressional agenda.

Rather than avoid the tough choices, we must make them. Rather than avoid offending special interest groups, we must enlist their support in a national cause. Rather than follow the President's stay-the-course mentality, we must break sharply with the past.

In 1985, I voted for the last great experiment in tough choices when Representative Marvin Leath proposed a combination of spending cuts, tax increases and a one-time elimination of Social Security and Federal retirement cost-of-living adjustments to balance the fiscal 1986 budget.

Unfortunately, we were joined by only 56 colleagues, 41 of them Democrats. At the time, this proposal was highly controversial. But if we had prevailed then, we wouldn't be faced with the absolutely devastating choices confronting us today.

Since that time, Washington has continued down a hopeless path on automatic pilot where budget summits and automatic spending targets provided political cover rather than ask for courage.

We have to lead by example. The cuts start here. This year, I have voted in committee to cut $6.6 billion out of the fiscal year 1993 defense budget, and later on the floor, I voted to cut an additional $3.5 billion in spite of my strong national defense leanings. As chairman, I lead the House Intelligence Committee in reducing overall intelligence spending by 5 percent and cut 12.5 percent from the committee's operating budget. I also opposed Social Security benefit increases because there was no provision to pay for them.

These are just a few examples of options available to Congress and the President right now. But as Federal elected leaders we must do more to curb the deficit.

First, I believe we should freeze spending and reorder our priorities.

I would support efforts to increase the portion of Social Security benefits subject to income taxes and raise income-based Medicare premiums so that higher income Americans receive no subsidized coverage.

For non-means-tested entitlement programs, I will support limiting cost-of-living adjustments.

I am willing to look at gradual elimination of farm subsidies and movement to a free-market agriculture policy.

A gasoline tax increase earmarked for deficit reduction and public investments for our young people should be enacted.

There is much political gamesmanship in Washington to see who can be blamed for the deficit and who can be perceived as trying to solve it. This is not a game. There is no more important issue than the budget deficit on which Congress and this administration should demonstrate bipartisan leadership and cooperation.

Mr. FISH. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, it took 167 years for America's national debt to reach $100 billion, another 40 years to $1 trillion, but only 9 more years to climb to $3 trillion. I shudder to think where we will be 5 years from now if we do not adopt a balanced budget requirement.

We know the Federal budget has not been balanced since 1969, that our Federal deficit stands at $400 billion, and that annual interest payments on the national debt now consume over $200 billion annually. That is a $3,300 burden for every family of four in America. Next year, for the first time, interest will represent the single greatest expenditure in the entire budget—more than defense, and more than Social Security. These interest payments do not provide education for a single youngster, health care for an ailing American, housing for any homeless person, or police protection for any besieged innercity dweller. It is lost dollars—gone to pay for our past spending habits.

How do we deal with this fiscal crisis? The idea being considered today has been around since the 1930's—a constitutionally mandated balanced budget amendment.

Finally, today we have an opportunity to consider this amendment. Without it, the best intentions to rein in the Federal spending deficit will be fruitless. Look at the record of laws we have passed to require a balanced budget: The 1974 Congressional Budget Act, Gramm-Rudman I, Gramm-Rudman II, and the 1990 Budget Enforcement Act.

None of these has worked. They have not worked because each of them have been statutes, laws that can be undermined or negated by another law when spending pressures become too intense. Congress needs self-discipline that goes beyond a law that can be changed by a simple majority. Congress, the President, and the American people need—and want—a constitutionally mandated balanced budget. The amendment represents the only real opportunity to impose fiscal responsibility on this Congress, for this Nation.

Several of the balanced budget amendment options which will be debated more specifically tomorrow are good. The Kyl-Allen amendment limits spending to 19 percent of gross domestic product and—most important—would include line-item veto for the President—a necessary first step in the enforcement process.

The Barton proposal has the advantage of requiring a supermajority to increase taxes, thus making it harder to balance the budget on the backs of the American taxpayer. But the rule that we are conducting this debate under stipulates that the last successful amendment will carry the day, and if adopted on final passage by the required two-thirds vote, will be the constitutional provision this body says should be sent to the States for ratification.

That last vote is the Stenholm-Smith proposal. I will vote for it, with full knowledge that its adoption overrides any earlier vote for Barton or for Kyl-Allen. I support Stenholm because it has teeth. It will force both the President and Congress to make the tough choices on deficit reduction that have been avoided up to now. It is specific in how we estimate revenues. It includes all Federal spending under its umbrella.

The Stenholm proposal includes a supermajority vote for increasing the debt—an important distinction from the Gephardt proposal. Without it, it would be business as usual. The voting requirements of the Gephardt proposal to increase the debt are no different than what we have today—and is that not what we are trying to change? This supermajority voting requirement would alter the path we are already on—which is avoiding the tough choices, building up massive deficits, and passing on a mountain of debt to our grandchildren.

I also want to point out that the Stenholm language does nothing to jeopardize the Social Security Program for senior citizens. Ironically, the Gephardt amendment, which claims to protect Social Security by exempting it from the provisions of the balanced budget amendment, would actually jeopardize the viability of the trust fund. It would be so because, once outside the confines of the budget limit, the Social Security trust fund would become a funding source for every spending program anyone might dream up.

Conversely, the Stenholm proposal would provide this Congress with complete discretion as to how to maintain the viability of the Social Security Program. Since Social Security is already protected under current budget statutes, it is very likely that it would continue to be protected under legislation implementing the Stenholm constitutional amendment. The interests of the elderly are well protected in the existing political system—unlike the interests of future generations that will bear the burden of our debt. It's regrettable that opponents of a balanced budget amendment would use scare tactics to frighten the elderly into thinking that this Congress—or any future Congress—is going to reduce their benefits.

But let me take a moment to comment on special interests. Interest groups are not going to persuade Americans to oppose a balanced budget amendment by arguing in favor of subsidies, pork-barrel spending, and Government Waste. Big city mayors, for instance, are not likely to convince voters by arguing that a balanced budget amendment is bad because it would reduce subsidies to money-losing mass transit systems in their cities. Large farmers will not get much sympathy when they complain that a balanced budget amendment will reduce the amount of taxpayer money they get not to grow crops. Welfare lobbyists will not impress working Americans by protesting that a balanced budget amendment might restrict how much money people are being paid not to work. No, special interest groups cannot reveal their real reasons for opposing a balanced budget amendment: Their trough may dry up.

This is tough talk—but it is time for tough talk. A balanced budget amendment will require Congress to prioritize spending. It can help weed out wasteful, outdated, or ineffective programs. And it will help force honest debate.

Make no mistake about it—voter outrage is driving the balanced budget amendment. It is time to enact a real, effective, responsible constitutional amendment to balance the budget.

Mr. FISH. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, many opposed to the balanced budget amendment think this is just an intellectual exercise similar to their college debating class. We come down to the floor, do a cute song and dance, and then go home to be reelected. Well, I am sorry, but that's not why I came to Washington.

I came to Washington seeking some common sense in Federal spending procedures. To enact the structural changes necessary to ensure the future of our country. The balanced budget amendment is the cornerstone of this 10-year quest.

Today, the world is a different place than it was 10 years ago. Western Europe is looking toward Eastern Europe and the Japanese are finding that their manner of living is costing them more than they can afford. The overseas bankers have realized that they have plenty of things to spend their money on in their own backyards.

Without this overseas financing of our Federal spending, the competition between the Federal Government and the private sector for American capital is going to be much tighter. We need to

remember that the money we borrow to feed the deficit is money that the American people cannot borrow to buy cars, finance mortgages, or use for student loans. It is money that corporations will be unable to utilize in the retraining of their workers, the retooling of their factories, and the reinvestment in our future.

So, Mr. Chairman, this is much more than an intellectual debate about constitutional pristineness or economic theory. This is a debate about the future of our country.

If you want jobs, vote for a balanced budget. If you want reinvestment in our industry, vote for a balanced budget. If you want a secure future for our senior citizens, vote for a balanced budget.

Let me say a word about that last point. A lot has been said about cuts that may have to be made to Social Security under a balanced budget amendment.

Social Security is a self-funded program. A tax levied on working Americans is used to pay benefits to retirees. In 1967, President Johnson made Social Security receipts and Social Security benefits a part of the unified Federal budget. That was wrong. But, we have corrected that error and, by statute, we have removed Social Security from the unified Federal budget.

Because Social Security is self-funded, benefits must be paid from Social Security receipts. A constitutional amendment requiring a balanced Federal budget will not change that.

Those who are opposed to a balanced budget are attempting to frighten retirees by threatening to put Social Security back into the unified Federal budget. I for one, will do all that I can to prevent that from happening.

If we were to put Social Security exemption directly into this amendment, it would open up a loophole so large that every social program in the country would become part of Social Security. It would only be a matter of time before Congress loaded up the Social Security system with so much baggage, that the whole program would go bankrupt.

Without the balanced budget amendment, there is no way Social Security can survive. For that matter, there is no way our great experiment with democracy can stay solvent. We will be forced to enact Third World policies of currency devaluation and loan default just to keep the lights on at the Lincoln Memorial.

Cuts are going to hurt. But they're going to be phased in over the next few years to ease the pain. Our revenues will continue to grow without any major changes in the Tax Code. We just need to keep Federal spending down to a reasonable level. And all that it will require is that the Congresses of the future be more responsible than the ones of the past.

Mr. Chairman, let us face it—the pundits have already spoken—this Congress is a bust. The check cashing scandal, the post office fiasco, the perks—it's gotten so bad that most folks would vote to do away with this body if they could.

But Mr. Chairman, we have a chance at salvation. A chance to have our names spoken in the same breath as Washington and Lincoln. A chance to enact a change that will be the economic savior of this country. A balanced budget amendment to the Constitution.

One day, Mr. Chairman, our grandchildren will realize what an enlightened decision this amendment was. I urge those on the other side to join us in making history.

□ 1830

Mr. SMITH of Oregon. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, in a way, I guess, it is disappointing that we have to have this debate today. Over the years, we have tried to handle the Federal budget deficit in the best way that we thought we knew how, through Gramm-Rudman and through budget agreement of 1990, and I think everybody objectively has to say that they were both abject failures.

I remember my second term here in the House, and we had a Republican conference here on this very floor. And at that time the Secretary of the Treasury was Don Regan. And he stood exactly where I am standing today. And he told a very shocked Republican conference that we were facing a $100 billion deficit that year, $100 billion.

We stand here 9 years later, almost to the day, facing a $400 billion deficit and a national debt that is exceeding $3 trillion.

So it is obvious that we have not done what is necessary to even get close to balancing that budget.

I have to say that the other speakers who have spoken about how effective the State regulation on balanced budgets have worked, I think, make an excellent point. In our own State of Ohio, even though it has been an ugly process, we have been able to balance the budget because we are constitutionally constrained to do so.

In my 9 years in the Ohio General Assembly, we were always proud at least of saying that we balanced the budget. Some people did not like it, but ultimately we were fiscally responsible because of that.

I would ask those opponents to the balanced budget amendment, we tried Gramm-Rudman. We tried the budget agreement. Neither worked. What is the solution?

I guess we are desperate. We have to admit that we are desperately trying to find a way that we can stop the flow of red ink. The balanced budget amendment clearly is that vehicle. If not us, who; if not now, when?

Our constituents overwhelmingly support the balanced budget amendment. They, I think, in many ways are well ahead of us in discerning the future and what it means to vote for the balanced budget amendment. Vote for the Stenholm-Smith balanced budget amendment.

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I rise in opposition to all of the proposed constitutional amendments.

I want to say at the outset that I share, entirely, the feelings of frustration and exasperation which have led many of our colleagues to conclude that amending our Constitution is our only hope for solving the Federal Government's persistent budget deficit problem. It has been enormously discouraging to have spent so much of our time and energy over the last decade struggling over ways to reduce our annual deficits—and, in many cases, to have come under fire for supporting unpopular spending cuts and tax increases—only to find that our actions have not even begun to close the huge gap between revenues and spending.

The enormous deficits the Government has been running, which have caused the national debt to soar, are without a doubt the leading policy and political failure of our generation. They are the root cause of the low rate of investment which has saddled our Nation with slow economic growth for years to come, and they are a major factor in our inability to respond to our Nation's most pressing needs. They are a large part of the reason why voters have become increasingly angry at Congress, as well as why we all feel that something has gone terribly wrong with our Government and our political process. There is no question that we ought to be trying as hard as we possibly can to bring these deficits down over the next few years.

However, amending our Constitution is not the right way to accomplish that goal.

Approving House Joint Resolution 290 is an easy vote, and a meaningless one. It will do nothing in and of itself to reduce the deficit, because it will do nothing to cut spending or raise taxes. It will only mislead the public into thinking that we have done something about the deficit. And, it will give the President and Congress an excuse to put off for a few more years what we ought to be doing right now.

Just like the Gramm-Rudman-Hollings plan to balance the budget which Congress passed in 1985, this resolution is nothing more than a promise to reduce deficits in the future. And because it is a promise to do something that the President and Congress are extremely unlikely to do, it will probably be broken. As a result, public cynicism toward Congress will grow.

The reason that it will be extraordinarily difficult to balance the budget 5 years from now when it is expected that this amendment would take effect, is the same reason it is next to impossible right now: There is no political support for the deep program cuts and large

tax increases that are needed to bring spending and revenues into balance. There will not be any such support until we have a President who is willing to stand before the American people and tell them the truth about our budget crisis and the steps that will be required to solve it. If I thought for one moment that a constitutional amendment requiring a balanced budget would produce that kind of Presidential leadership and resolve, I would have second thoughts about my opposition to it.

But the truth is, rather than encouraging the President and Congress to exert leadership on the budget, it is far more likely that a constitutional balanced budget requirement will motivate the President to use phony budgeting techniques. Just as was the case under Gramm-Rudman-Hollings, there would be every incentive to use unrealistic economic assumptions to produce inflated estimates of revenues, to move programs off budget, to delay payments into future years, and to use every other accounting gimmick anyone can think of to produce a balanced budget. Then, if all else failed, the President would only need to obtain the support of three-fifths of each House of Congress to approve spending which exceeds revenues.

Gramm-Rudman-Hollings was a setback for our efforts to reduce budget deficits. Because we were required to meet a particular deficit number each year, our goal of reducing deficits was replaced by a goal of seeing how creative we could be in showing we had reached a particular deficit number without actually cutting spending or raising taxes. A large part of the phony budgeting that took place during the late 1980's involved pushing costs into future years, thus making our current task even more difficult than it would otherwise have been. As a result of our enactment of Gramm-Rudman-Hollings, we missed a valuable opportunity to cut deficits while the economy was growing and could have absorbed the cuts much more easily than it can now. Exactly the same thing could happen under a balanced budget amendment.

My skepticism about balancing the budget under a constitutional requirement is due not only to the fact that previous schemes such as Gramm-Rudman-Hollings have failed, but also to the fact that the deficit problem has become harder to solve now than it was during the 1980's. Bringing spending and revenues into balance by fiscal year 1997—assuming it were done honestly—would demand far more draconian measures than at any time during the last decade: it would require approving a total of $550 to $600 billion in new spending cuts and new revenues over the 5-year period from 1993–1997, on top of the spending cuts we are still trying to achieve, and which we were barely able to enact, under the 5-year budget agreement we adopted in 1990.

I would urge our colleagues who plan to vote for House Joint Resolution 290 to examine closely the illustrative plans for cutting deficits by $550–$600 billion over 5 years that have been produced by the House Budget Committee. All of the options would require substantial reductions in Social Security, Medicare, veterans' benefits, and scores of other domestic programs as well as defense and foreign aid, because it is impossible to balance the budget without cutting those important programs. Two of the options would also include substantial tax increases.

While no one knows with certainty which programs would be cut and whether taxes would be raised, Members who anticipate that we will only cut spending to meet the amendment's requirement ought to heed the letter sent by Richard Lesher, president of the U.S. Chamber of Commerce. The chamber opposes this resolution because it "strongly believes that House Joint Resolution 290 would result in large tax increases, aimed primarily at businesses."

My own prediction is that the burden of this amendment would fall most heavily on programs which represent investment in the future, because it is easier politically to cut spending for roads and airports, education and training, and research and development, than, for example, to cut Social Security benefits. If this amendment provided for a balanced operating budget, separate from capital expenditures, the way many State balanced-budget requirements do, then we would not need to fear cutting the programs we need to support in order to provide for a productive economy. But this amendment does not differentiate between spending for investment and spending for consumption and, as a result, it has the potential to result in a substantially reduced standard of living for our children and grandchildren.

Furthermore, even if the constitutional amendment produced the intended result, a balanced budget is not always the wisest fiscal policy. In the years before the current recession occurred, many economists were advising the House Budget Committee that not only should we be trying to eliminate deficits, we should be working toward running budget surpluses to help prepare for paying the enormous costs of the income support and health care programs that will be needed when the huge baby boom generation reaches retirement age. Although running a surplus is obviously beyond the realm of possibility any time in the near future, it remains a sensible long-term goal which is unlikely to be pursued if the Constitution demands that spending equal revenues.

On the other hand, during recessions, it often makes sense for the Government to run a deficit as a way of stimulating the economy and cushioning the recession's effects. Yet, under this amendment, two-fifths of either House of Congress could block the efforts of the President and the majority in Congress to take such action.

I find it ironic that this balanced budget amendment has come before us at a time when the President and Congress are probably exercising more budgetary restraint than we have in years. With minor exceptions, we have met the severe constraints of the 1990 5-year budget agreement. During any other recession, we probably would have added far more to the deficit by cutting taxes or increasing spending than we have done during this downturn, which is particularly remarkable in light of its length.

And, despite growing demands for Federal assistance in a broad range of areas, the majority of Members of the House voted just recently to use additional defense savings for deficit reduction, rather than for domestic spending. As a result, Congress will be appropriating $7 billion less for fiscal year 1993 than the amount we would need to appropriate just to keep up with inflation.

In addition, the pay-as-you-go concept is not only part of our budget rules—which can, of course, be waived by majority vote. It has also taken hold in terms of the way we view any measure which involves a cost to the Treasury. Any such proposal made by the President or a Member of Congress which does not identify a way to pay for it, is not taken seriously here.

In other words—although it is hard to tell from the huge deficits the Government is continuing to run—despite the recession, and despite divided Government that keeps the President and Congress at odds over spending priorities, we are probably doing a better job of controlling spending right now than we would under any kind of balanced budget requirement, constitutional or otherwise.

Finally, this proposal raises serious questions about how the amendment would be enforced and how that would affect the balance of powers among the three branches of Government. The presumption is that if Congress were unable to comply with the balanced budget requirement, the Supreme Court would decide how to allocate spending or raise revenues. Members who plan to vote for this proposal need to consider very, very carefully whether it is wise to cede the power of determining fiscal policy to a branch of Government that is not directly accountable to the electorate and one which is also not prepared to make decisions in this area.

Mr. Chairman, for all of the reasons I have mentioned, and for others I do not have time to speak about, I am very troubled that the House is even considering burdening the U.S. Constitution with an amendment which does not belong in it, which could hamper our efforts to reduce budget deficits, and which is virtually guaranteed to further damage public confidence in Congress and in our political process. If Members of the House are truly serious about balancing the budget, then let us begin right here and now to work toward that goal in the proper and responsible way: By voting on a plan of spending cuts and tax increases that will produce those results.

Mr. Chairman, I urge our colleagues to vote no on House Joint Resolution 290.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Chairman, I rise in strong objection to this measure to amend the Constitution of the United States.

It would seem from some of the rhetoric being exchanged in this Chamber today, that some of us actually believe that a balanced budget amendment is a magic wand. One quick wave over the document that represents the heart and soul of this Nation, and the budget will be balanced, the economy restored, and the recession shattered by this almighty amendment.

Well, Mr. Chairman, in my 8 brief months in Congress, I have witnessed numerous attempts here on the House floor to jump start our ailing economy.

I have watched as the House decided to fund a series of obsolete weapons systems, when billions of dollars could have been channeled toward deficit reduction.

I have watched as the House decided to vote against a Black Caucus budget which would have brought down the firewalls, to combat the harsh realities that millions of Americans experience everyday.

The realities of unemployment, homelessness, and economic peril. This same proposal also provided significant measures for deficit reduction.

And now I am standing here before you, listening to the hypocritical chorus, calling for a balanced budget amendment to the Constitution.

Advocates of the amendment have stated that they will not tolerate business as usual.

Well, by passing this amendment, we would be indulging in the worst form of business as usual. And that is passing laws for the mere sake of politics. Election year politics.

No one in this Chamber, Mr. Chairman, can deny the fact, that we must reduce the deficit. Indeed, I believe that deficit reduction is an essential step to get our economy moving in the right direction.

But we cannot and must not doctor the Constitution of the United States just for the sake of having something look good on paper.

In doing so, we would be blatantly disregarding the urgent daily needs of millions of Americans in this country. Basic needs like food, heat, and a place to sleep each night.

Make no mistake, the impact of the adoption of this measure would fall directly on the backs of those who can afford it least. Communities which are ravaged by a lack of opportunity, and outright poverty could potentially face huge cuts.

For the last 12 years, as our economy and national deficit plummeted out of control, corporations grew fatter by transferring jobs out of the country and dipping into the pension fund, the middle class all but vanished, and the wealthy benefited from tax cuts which certainly made little economic sense.

And now, we are actually considering the possibility of dealing a fatal blow to the few remaining social programs left in this Nation that help the disenfranchised citizens of this country each and every day of their lives?

Mr. Chairman, I urge my colleagues to look toward the future, with the past in mind. If we really want to make tough choices as advocates of this measure argue, then let us start making them for all Americans.

If you are really serious about balancing the budget, then pass the $10 billion jobs bill pending before the Public Works Committee. If we put Americans back to work, they will pay their taxes, and reduce the deficit.

If you're really serious about balancing the budget, then pass fair trade agreement legislation that will keep our jobs here in the United States, not Latin America, or Asia. Once again, more working Americans will pay their taxes, and reduce the deficit.

If you're really serious about balancing the budget, then let's change our tax laws to insure that the super rich carry their own weight off the backs of the middle- and working-class people of our great Nation. I know that it is an unpleasant reality, but more taxes in the higher brackets will reduce the deficit.

If you are really serious about balancing the budget, then we must enact national health insurance legislation, to guarantee health care for each and every American.

And if you are really serious about balancing the budget, we must invest in the decaying infrastructure of America's urban areas. Our cities are hurting. One need look no further than the events that devastated the city of Los Angeles last month to realize this. By rebuilding and reinvestigating in America's great cities, we will put people to work, stimulate the economy, and reduce the deficit.

A primary purpose of our Constitution is to protect every citizen of the United States by ensuring them certain basic rights.

Clearly such an amendment at this time would be in direct opposition to the intent of those who framed the Constitution.

The time to act is now. I can picture the headlines of the newspapers 10 years down the road. "Budget is Balanced" right above "Record Unemployment" and "Social Security Trust Bankrupt."

Mr. Chairman, what good is a balanced budget for our children, when they will be living in a world where they will not even be afforded the most simple, basic rights that we as Americans have come to expect?

□ 1840

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I opposed this amendment the last time around. I think it is a lousy way to bring the Government's borrowing under control. It would be better, as the Nike ads say, to "just do it," but I do not think there is any better way.

Everyone says he or she wants to balance the budget, including me. I vote against big spending whenever I can, from the strategic defense initiative, the B-2, troops in Europe, the super collider, the outside earnings for Social Security, the space station. I even voted to maintain the walls in the budget agreement so defense savings would go to lower the deficit rather than initiate new spending.

But I am no angel. I have my sacred cows as well in Government spending, as I suspect everybody here does. What we need is a specific plan to reduce the deficit. So why are we voting the balanced budget amendment today instead of a specific plan to reduce the deficit, a specific plan that makes the cuts for the people who want us to defeat this amendment because there are other serious plans available to cut the deficit? I ask this simple question, Where are they? The fact is, those plans do not exist. Once again we are asked to vote against an amendment on the grounds that it is dangerous to amend the Constitution. This time I hear no formal presentation by those who want to defeat this amendment of what we will do to diminish the dangers of a crumbling economy and a crippling debt.

Hopefully the amendment will require us to adopt such a specific plan. We all decry the lack of leadership, backbone, to bring our budget into balance. The President is not going to do anything. He has not brought a specific plan. Frankly, neither the Republican nor Democratic leadership of the Congress has done anything. There is no specific plan. There is only finger-pointing, and too much of it for the country's good.

The fact is, the financial stability of this country of ours is in jeopardy and no real plan, with all the hard choices that that plan would contain, exists to end the budget crisis: no Democratic plan, no Republican plan, no bipartisan plan. Therefore, a constitutional amendment seems the only way out.

It clearly is no panacea, because, as the gentleman from California [Mr. PANETTA] has repeatedly said, it will require tough decisions to raise revenues and to cut spending, and they will have to be made regardless of this amendment. But it will be far tougher to thumb our nose at the beloved document, the Constitution, than to ignore a statute requiring a balanced budget which has been on the books for years.

Finally, let me say that we need to balance the budget to promote justice and growth in this country. Unless the borrowing is stopped, the Federal Government eventually will be unable to respond to any of the country's problems that require spending. Programs will be squeezed out by the slice of the budget pie devoted to interest on the debt.

If the Members believe as I do that Government could be a force for change, for justice, for opportunity, such a result is unacceptable. So I will vote for the Stenholm amendment, believing that even with the legitimate concerns raised about it, it offers us the last best hope to solve this problem.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I rise in support of Kyl, Fish, Barton, Stenholm, in that order.

Mr. Chairman, I rise today in support of the effort to provide an amendment to the Constitution requiring Congress to balance the budget. More specifically, I support an amendment that focuses attention on the real culprit of our budget woes—Federal spending. However, before I explain the specific proposals I support I want to explain why I believe a constitutional amendment to balance the budget is necessary. I support a constitutional amendment for one simple reason—unless Congress is mandated to balance the budget it will never muster the political will to make the decisions necessary to do so.

With the fiscal year 1992 deficit expected to approach $400 billion, the total Federal debt at $4 trillion, and interest on the debt exceeding $200 billion, it is no wonder that the American people have become cynical about Congress and its ability to deal with our budget problems—or any problems for that matter. Indeed, these figures by themselves should be enough to silence any of my colleagues who suggest that Congress doesn't need a balanced budget amendment to act responsibly. Congress, at least as it is presently constituted, lacks the political will and courage necessary to make the tough decisions required to balance the Nation's books, and I have long ago concluded that this institution needs more than a friendly push to take some real action.

I submit that the course of action Congress has been pursuing for the past 30 years is putting at risk everything we hold dear as a nation. Can anyone in this House really comprehend $4 trillion or how our children and the children yet to be born will pay for the absolutely disgraceful and irresponsible spending habits of Congress? Indeed, I view the actions of Congress in regard to the national debt as criminal. That the root of our problems is Federal spending is clear. Indeed, revenues to the Federal Treasury have more than doubled in the past 12 years increasing $600 billion to $1.1 trillion in 1992. Over the same period of time our Federal deficits have actually increased, meaning Federal spending has increased even more dramatically. No; we do not need more taxes—we need to cut spending.

Because of the current state of affairs, we find the American people clamoring for change, and we subsequently find ourselves in the midst of a debate to amend the Constitution. My offices in Illinois and my Washington office have received dozens of phone calls on the subject. In addition, like every congressional office I have been deluged with letters from constituents, special interest groups, and other Members of Congress offering differing opinions on the issue. However, for all the letters I have received, all the speeches I have heard, and for all the articles that I have read about the dire consequences such an amendment would have on various Federal programs, interest groups and individuals, none of these can compete or are more powerful or persuasive than a simple picture of a small child. With all due respect to my colleagues, not one of the concerns presented today is more important than the concern for the future of our children.

To those who claim to be the champions of the downtrodden, the unrepresented, and the unprotected, I ask where is your compassion for all those future generations who have no voice in the decisions we make today? Are we so selfish, are we so ignorant, are we so callous, that we are actually willing to mortgage the future of our children because we are not willing to make relatively modest sacrifices today? Or do we simply and conveniently take the approach "Out of sight, out of mind?"

Mr. Chairman, suffice it to say Congress has an obligation to act in a fiscally responsible manner. Based on my observations of Congress over the past 20 years, it appears clear to me that the only way to accomplish the goal of achieving fiscal sanity is through a constitutional amendment. It is time to put up or shut up. As to which of the proposals before us today offers the best hope to accomplish the goal of limiting the growth of Federal spending, in my view the Kyl-Allen amendment is best. I strongly support the Kyl-Allen approach as it goes to the heart of the matter by capping Federal spending at 19 percent of GNP. This amendment will force Congress to pare down the size of that monstrosity known as the Federal bureaucracy. The Kyl-Allen amendment also provides an additional provision to help in this effort by incorporating a line-item veto for the President—a weapon against pork barrel spending that 43 Governors already have and is long overdue for the President.

I also support the Barton-Tauzin amendment which requires a supermajority of the House and Senate to increase taxes and the debt limit. Again, this amendment focuses attention on the spending side of the equation. If neither Kyl-Allen or Barton-Tauzin gain the necessary two-thirds majority, I will also support the Stenholm-Smith amendment. The Stenholm amendment requires that a supermajority of both the House and Senate must vote to approve any increase in the Federal debt limit. Although this amendment is by no means ideal, it is better than the status quo and will force Congress to make difficult decisions.

Mr. Chairman, at some point Congress must act and pass a responsible constitutional amendment to balance the budget. For the sake of our children we had better do it sooner rather than later.

Mr. FISH. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, the debate here today really boils down to a matter of right and wrong. I doubt that there are any in this body who would still argue that the goal of a balanced budget is wrong. We all know it is wrong to spend more than we have. The American public has let us know rather convincingly they expect us to balance our checkbooks—now they are asking that we balance the budget. Some have suggested that amending the Constitution to achieve this goal is like attacking an anthill with a bazooka—that a balanced budget is too trivial to merit inclusion in such a document. Mr. Chairman, this country faces annually $400 billion deficits, a $4 trillion national debt, and an interest payment totaling 14 percent of all Federal spending in the coming year; with these facts in mind, I would suggest that a balanced budget is not trivial, that indeed it is vital to insure the solvency and security of our Nation and our people. It is the right thing to do and now is the right time to do it. We have tried in the past to control spending by resolution and by statute; these measures have failed completely, including the much vaunted Budget Deficit Reduction Act.

Many of us have spent a great deal of time fighting to bring this measure of fiscal responsibility to the floor. As an original cosponsor of the Stenholm amendment, as well as three other balanced budget amendment resolutions, I am heartened to see that this body has finally recognized the danger of spending money we do not have, that our children—even our grandchildren—may not have either.

Just as important as passing this balanced budget amendment, however, is how we choose to enforce it—to achieve the goal it embodies. Opponents of the measure have resorted to scare tactics, deliberately misrepresenting that enforcement of this amendment will directly and immediately cause drastic cuts in Social Security. Not only is this untrue, because any cuts to Social Security or any program will require additional votes in this body, but it is also a cruel play on the emotions of the many seniors who rely on Social Security as their major source of income. Let us be clear about this: the Social Security trust fund is off-budget, and the major threat to it is what will happen if we do not balance the budget: That is, business as usual deficit spending leading to bankruptcy of the country. Those who are shouting that lightning may someday strike the room in which the Social Security fund resides should realize that the whole house is already on fire today, now—burning down around us.

Another myth that is popular in some quarters of this body is that taxes must be raised in order to make ends meet. We must not let ourselves turn this sound measure into an automatic tax hike every time Congress wants to spend more money. It is overspending that has landed us in this mess, and it is spending we must cut. For instance, one respected private economic organization has drawn up a plan which would balance the budget by fiscal year 1997; without draconian cuts in entitlement programs like Medicare and Social Security, and without raising taxes. According to this plan, we would cut $680 billion over 5 years. This is just one approach, there are others as well. If we all now can agree that a balanced budget is our goal, this Congress and its stubborn inability to make tough choices are the only things standing in the way.

Mr. Chairman, it is clear from the failure of past initiatives that we need to protect ourselves from our own spending habits. The people of southwest Florida have made it clear to me that they need protection from our spending habits. Let us pass this amendment and then get down to the hard work of setting the budget straight once and for all. I urge my colleagues to support the Stenholm amendment.

Mr. FISH. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank my good friend, the gentleman from New York, for yielding this time to me.

Mr. Chairman, I rise in strong support of House Joint Resolution 290—the balanced budget amendment to the U.S. Constitution. My commitment to seeking a constitutional remedy to ensure a balanced budget, Mr. Chairman, is long standing and deep. It is a serious step that I, and others on both sides of the aisle, take very seriously. In this Congress, as well as the 97th, 98th, 99th, 100th, 101st Congresses, I have been a sponsor and strong proponent of a constitutional amendment to balance the budget.

I believe this amendment is an idea whose time has come.

I would remind my colleagues that 2 years ago, the House of Representatives came remarkably close to passing a balanced budget amendment. We, unfortunately, were just seven votes short of the two-thirds majority necessary for passage. For its part, the U.S. Senate, by a vote of 69 to 31 adopted the amendment back in 1982. This year, however, I am hopeful that both Houses of Congress will succeed.

I hasten to add that over the years, other similar attempts to bring expenditures in line with revenues have languished in committee, bottled up by the Democratic leadership of this House. Thankfully, the leadership's misguided effort to thwart consideration of this amendment has been overcome. As a signer of the discharge petition—designed to propel the balanced budget amendment out of committee and on to the House floor—I'm pleased we are finally getting an opportunity to debate this vital issue in the House.

Mr. Chairman, with the deficit ballooning to $399 billion for fiscal year 1992, the tough medicine of requiring a balanced budget can no longer be ignored. Dismissing this amendment as a mere gimmick may be fashionable shorthand and a glib putdown by Washington insiders who want to spend without restraint, but I believe the people will see through that cynical facade and support us as we try to put our fiscal house in order.

I believe, Mr. Chairman, we have a compelling moral obligation to all Americans to foster an economic climate most suitable for sustainable economic growth, across-the-board prosperity, and the creation of jobs.

Skyrocketing deficits and uncontrolled spending, however, inhibits and frustrates that practical and necessary goal. Uncontrolled spending will ultimately exhaust our Nation's economic vitality.

This Congress, it seems to me, can no longer mortgage the future of our sons and daughters by spending piles of money we simply do not have. As of June 1, the public debt hit $3.9 trillion. That is an average of $65,000 for every family of four in this Nation. In the next fiscal year, interest payments alone on the Federal debt will top $315 billion—an absolutely staggering sum. It is important to note that past efforts at deficit reduction—as well meaning as they might have been—simply have not had the desired outcome.

The Gramm-Rudman law, for example, was a sincere attempt to lick the deficit problem, but it failed. The budget summit agreement, in like manner, has turned out to be ineffective. It, too, has failed. Business as usual just does not cut it when confronting a problem as ruinous and potentially destructive as runaway deficits.

Almost 200 years ago, Thomas Jefferson wisely pointed out that;

> The Public debt is the greatest of dangers to be feared by [the] government.

Jefferson also wrote:

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

The public debt, which explodes by the day, requires the remedy we propose today. I thought the Philadelphia Inquirer—once an opponent of the balanced budget amendment—summed it up well in an editorial published on June 7, 1992:

> It now appears that the only fiscally responsible action Congress has a chance of taking this year is to pass the balanced-budget amendment * * *. With the national debt growing by $1 billion a day, we believe anyone arguing against a balanced-budget amendment, as we have in the past, has an obligation to explain how fiscal sanity would be restored without it.

In like manner, U.S. News & World Report said in a June 1 editorial:

> The time has come to recognize that the right thing to do is something we have long resisted: Amend the Constitution so that Congress and the president are required to balance the budget * * *. Yet for all the inherent flaws and dangers of an amendment, an honest look at our past behavior and the future burdens we are imposing on our children make a compelling case for its adoption * * *. But we can no longer flinch from reality; we can no longer afford the illusion that we can borrow our way to prosperity.

Mr. Chairman, a constitutional amendment to balance the budget doesn't sidestep the tough choices Congress will be called upon to make in the future. Rather, passage by Congress and ratification by the several States will ensure that those tough choices—prioritizing spending—will be made instead of resorting to deficit spending.

□ 1850

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, I rise in support of the position of the gentleman from California [Mr. PANETTA]. We already have the appropriate legislation, the Constitution of the United States.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I appreciate the gentleman from California yielding me this time.

I particularly want to say that if there is good to come out of this lengthy debate, I think it is most likely to occur in the aftermath of the vote tomorrow on the constitutional amendment. It is most likely to occur if the emerging coalition that I see on the floor among Members who seem to be sincerely committed to enforcement mechanisms and to a fundamental 5-year program of deficit reduction continues to work together. I think this shows the direction we need to go in both a bipartisan and bicameral manner, and at both ends of Pennsylvania Avenue.

But I wanted to make some comments that relate to how we got here and what the deficit problem really is. Many people are used to hearing in our political campaigns that the Members of Congress are the big spenders, the tax-and-spend Democrats, the people who never get the message. And I want to take, if I could, just a little time to point out some facts that sometimes amaze our constituents.

This chart is a comparison of the President's budgets versus congressional appropriations. During the entire decade of the 1980's up until fiscal year 1992, as the chart shows, Congress and the President have appropriated almost exactly the same amount of money. In fact, Congress has provided slightly less than requested by Presidents Reagan and Bush in their budget submissions.

And we often hear about the line-item veto and the need to give the executive branch the power to make some unilateral decisions in light of congressional actions on what appear to be on the surface wasteful. But line-item expenditure rescissions, which are the equivalent of blue-pencil authority for the President have been consistently exceeded by the response of Congress. We have in fact sent back to

Presidents Reagan and Bush a larger sum than they have requested during the entire period of their Presidencies.

But to know where we are going really requires us to say where we have been over the last 12 years. Since 1980 the brunt of budget reduction actions have been directed at the nondefense discretionary category. I think you can see from the chart that when measured in constant 1987 dollars to remove the effects of inflation, the 1992 level for nondefense outlays is 4.5 percent lower than it was a decade ago in 1980. In the 12 years that have passed we have seen the interest on the debt go up 119 percent, we have seen entitlements—checks that go into the mail to people—go up 39.6 percent, and military spending, which is now trending down again, go up 33 percent. Revenues have gone up 21 percent above inflation.

The next chart shows the share of the Federal budget which is currently allocated to a variety of areas of national interest. Non-defense discretionary, which is essentially domestic spending, has been reduced overall by one-third. Revenue has decreased significantly, and interest, of course, has increased substantially. Entitlements and military spending retained about the same share of the Federal budget during this period. Net interest, as you can see, is closing fast on domestic spending and will soon outpace it. On to the next chart. I want to point out that on the following charts these are actual dollars and not constant dollars. Domestic discretionary spending has been cut by about $298 billion in cumulative buying power since 1980. In other words, what we do for highways, for housing, for research. Many, many areas of domestic spending have in fact lost almost $300 billion in buying power since the beginning of the decade. The domestic trend shows that the biggest losses occurred between 1980 and 1987. Since then, as you can see, the gap between current spending and where we were in 1980 has been closing somewhat.

Of course, critics of domestic discretionary spending point to the rate of increase between 1990 and 1992, which is about 8.3 percent per year, to justify further reductions such as you can see in the President's budget for domestic discretionary programs. But a longer perspective gives a different reading. And I would point to the fact that we see in this chart that entitlements are essentially taking over our budget. Without entitlement reform, revenue increases or both, there is no question that all discretionary domestic spending will continue to be squeezed out.

The Congressional Budget Office projects that over the next 5 years, under current policy, entitlement spending will go up 38 percent, net interest on the debt will go up 39 percent, and discretionary spending, all that we do in our domestic budget for people in this country, will go up only 5 percent.

Some particularly important reasons for the 3 squeeze need to be put on the record. Medicare and Medicaid are expected to go up 77 percent over the next 5 years, and the deficit, which obviously increases continuously, will increase the net interest costs at the same time. You can see that these costs are taking over the total Federal budget.

It is important to point out that health care cost containment is the most essential step we can take in any budget enforcement program for long-term deficit reduction.

In 1993, the total outlays for Medicare and Medicaid will equal outlays for total domestic discretionary spending. In 1999, Medicare and Medicaid will even surpass Social Security outlays, $431 billion to $418 billion.

Mr. Chairman, let me say in conclusion that this information, which I know is rather complex for many, really shows the direction we are going to have to go in if we are serious about deficit reduction. Members can vote for the Obey amendment, as I plan to because I oppose a supermajority concept.

I have had the experience of working with a supermajority requirement in the California Legislature, and I can tell you that it has led to gridlock and paralysis worse than anything that Washington has ever experienced. I cannot see a reason to obstruct the will of a majority, or make it less accountable for the implementation of effective policy, which is the effect of the supermajority in practice.

I also believe that the Obey amendment is preferable because it forces the President to assume accountability in this process, by submitting a balanced, honest budget each year.

But even if Members vote for the Stenholm amendment, or if we come back next week and we have not passed an amendment, we still face these realities. We still face the need to move on a 5-year, 6-year- or 7-year plan for deficit reduction.

Mr. FISH. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. EWING].

□ 1900

Mr. EWING. Mr. Chairman, ladies and gentlemen, I know that there is very little really that anyone can add to a debate that has gone on for so many hours.

But because of my strong feelings on this issue, I feel required to speak out today. I support the balanced budget amendment.

The options to the balanced budget amendment are more debt, more instability, more hardships for the American people. Congress has failed to show restraint in their spending habits, and our debt has grown through each succeeding administration.

We are really much like an errant child who has failed to mind its parents and the rules that have been set down for it.

We must be reined in. Debt is now unmanageable at $45,000 per household. Debt was $1 trillion in 1980. It is $3.9 trillion now. Interest consumes 62 cents of every dollar of personal income tax and is 15 percent of our budget.

Compare this to the family business that goes bankrupt. Before you have a bankruptcy, we all realize the pain and the trouble that comes from financial hardships, and yet without action to correct that after one has gone bankrupt, the problems are even greater.

We have lacked the management. We have created the debt, and it is draining our resources.

Every debt-reduction bill that has passed this House has been skirted. That is why the constitutional amendment is required. We need for education, health care, job training, and development moneys that we do not have because of our debt.

Mr. Chairman, it is time to address this problem now. The American people want it and demand it. let us vote yes for this amendment.

Mr. FISH. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Chairman, about 200 years ago, Thomas Jefferson said if there was just one change he could make in America's brand new Constitution—it would be to include a provision to prevent any future government spending irresponsibly.

Today, we have the Government that Thomas Jefferson feared would result without that provision.

The argument of some today is focused on preserving the integrity of the Constitution. They say we should not muddle-up this great document with such trivia as a balanced budget amendment.

With a deficit of $400 billion and interest payments making up the third largest part of the budget, I say if it was good enough for Thomas Jefferson, then it should be good enough for this Congress.

Next year, our Government will spend $316 billion just to meet interest obligations on the Federal debt. That is $10,000 a second, or like spending the average yearly salary of one American worker in less than 3 seconds.

Michigan and 48 other States operate under similar rules as the balanced budget amendment.

In many of our State capitols, Governors and legislators are making the tough decisions that this body won't make and they are facing the consequences. But Congress has simply put off dealing with the problem.

Now that we have reached a near crisis stage, opponents of the balanced budget amendment still promise that Congress can make the tough decisions, that fiscal responsibility is just

around the corner, that we can solve this deficit problem without the higher authority of constitutional mandate.

The big spenders who oppose the balanced budget amendment keep finding new ways to place the blame for the sorry situation of the budget. They blame Ronald Reagan, they blame George Bush, they blame low taxes, they blame defense spending, the big spenders blame everyone but themselves.

The American people just do not believe them.

We have the tools required to balance the budget, but the discipline is lacking. The balanced budget amendment is that discipline. Pass the balanced budget amendment.

Mr. SMITH of Oregon. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. Inhofe].

Mr. INHOFE. Mr. Chairman, this is a particular exciting day for me. Today we will be passing a budget balancing amendment to the Constitution. It is particularly exciting for me because my involvement began in 1970 when, as an Oklahoma State senator, I introduced and passed the first State resolution to call for a constitutional convention for the purpose of passing a budget balancing amendment to the Constitution. While we were not successful in getting the required number of States for such action, I must admit I am now glad. I would much prefer to do it this way and avoid the risk of possible damage to our Constitution.

And now, Mr. Chairman, we have new allies. There are Members here supporting the budget balancing amendment who have heretofore opposed it. I welcome them aboard. They have heard the people who are demanding this action. Polling shows that 87 percent of the American people want a budget balancing amendment to the Constitution. They want this approach because Congress has demonstrated over and over again that it is incapable of fiscal restraint. I just came back from six townhall meetings in my district and after much lively debate, only one constituent opposed the budget balancing amendment.

Still there are those opponents speaking here today, trying to hold on with white knuckles to the old way of business. They are trying to scare large segments of our society like veterans and senior citizens into thinking this action will drain their programs. One even suggested that this action is immoral.

Well I suggest, Mr. Chairman, that morality is the issue today. The interest of the debt today will cost each newborn child $120,000 during his lifetime. Each family of four will have to pay $7,000 each year for this debt. That's the morality issue. I am the father of four children and I don't want to encumber them and our future generations with our extravagance.

This morning I had to miss two votes. I was in an audience where my No. 3 child Molly defended her dissertation and became a Ph.D. On the way back I got to thinking about what we are leaving these young achievers; a debt. A debt for our abusive spending behavior.

The budget balancing amendment works. I spent three terms as the mayor of a major city, Tulsa, OK. We have such a provision in our city charter. I had some well-meaning liberals on my commission who wanted to circumvent it, but they never could.

I recall in the history of my State of Oklahoma that in 1941 we passed a budget balancing amendment. All the liberals in the State legislature moaned and groaned and said it would not work. But it did. Every year I served in the State senate, members complained about it. They wanted to spend more. But it worked. And it is working in 48 other States.

Mr. Chairman, this is the only way to do it. Congress has demonstrated its insatiable appetite for spending money it does not have. This amendment will put on the parameters and say to us, "alright, Congress, go on and do the job you were elected to do, just don't spend any more money than you have."

That is not much to ask for my children and for yours.

Mr. PANETTA. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the balance budget amendment to the Constitution introduced by the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. Chairman, I rise in support of the balanced budget amendment to the Constitution, House Joint Resolution 496, introduced by Majority Leader RICHARD GEPHARDT, and the tough enforcement mechanism to this amendment that requires action in 1993 to begin deficit reduction. In fact, a balance budget does not require a constitutional amendment. It requires intelligent leadership and political courage. If tomorrow this President wanted to submit a balanced budget, he could do it. He never has. I urge support of these bills as a better alternative than the Stenholm proposal.

I am supporting the Gephardt alternative and its accompanying enforcement measure because they:

First, require immediate action in fiscal year 1993 on spending cuts as opposed to pushing off until 1998—Stenholm version—spending cuts. Steadily declining deficit targets are set over a period of 5 years until a balanced budget is achieved.

Second, place equal responsibility on the President/executive branch as on the Congress to balance the budget by requiring the President to submit balanced budgets to Congress. Congress would not be allowed to spend more than the President recommended.

Third, preserve the important constitutional prerogative requiring majority rule to activate deficit spending, as opposed to the Stenholm amendment which in effect would render great power to a minority of Members by requiring 60 percent of Members of each House to vote to allow deficit spending—thus rendering 40 percent of either Chamber the power to control decisions on deficit spending. Deficit targets could only be exceeded if the President requests that Congress enact a declaration of national urgency which must be approved by a constitutional majority of the whole number of each House.

Fourth, exempt Social Security from the amendment since Social Security is a social insurance program paid for by recipients and does not receive its funding from general revenues.

If we are going to balance the budget through a constitutional amendment and not put off the day of reckoning far into the future, let us do it right by requiring spending cuts and budget enforcement to go hand-in-hand with the amendment itself. Please join me in supporting the real deficit reduction bills.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in opposition to the balanced budget amendment introduced by the gentleman from Texas, House Joint Resolution 290.

Even if we adopt a constitutional amendment tomorrow, we are still going to have a huge deficit. The hard part is not adopting an amendment, but rather, making the tough decision necessary to get us to a balanced budget. A few additional words in the Constitution is not ultimately going to make that process of hard choices any easier.

In the past 3 years, the world has changed far beyond what any of us could have imagined. In 1989, first Poland, Hungary, Czechoslovakia, East Germany, Bulgaria, and then Romania fundamentally altered their political systems and their very way of life. Then communism fell in the Soviet Union. In large part, these startling changes were inspired by the people of the United States, and the system of Government we have successfully maintained for more than two centuries. In large part, they were inspired by the Constitution of the United States.

The Constitution has endured and inspired precisely because it has not fallen victim to political tampering. If we are serious about balancing the budget, let us muster the courage to deal with the deficit, not endanger a document that has inspired the world for more than 200 years.

This is a time of change. People are demanding action. The current political climate should give us the wisdom to reduce our deficit without a constitutional amendment. I do not feel that our revered Constitution should not be a vehicle for fiscal and economic policy.

It truly alarms me that the constitutional amendment approach leaves too

many unanswered questions. Questions that raise the specter of complicated future fiscal policy in the courts. Questions about how a rigid amendment might strangle future growth or be the final blow to our urban centers.

How can we forget 2 years ago when the summit produced an unacceptable package? Government was shut down for one weekend. The country was incensed. A constitutional amendment could produce worse gridlock.

I insist we do not need a constitutional amendment, with all its unanswered questions. Today we have, as we have always had, the constitutional ability to balance the budget.

It bothers me that we have no mechanism before us that tells the American people exactly what this will mean for them that to balance the budget will take deep cuts or large revenue raisers or a combination of both.

With a constitutional amendment we get locked into action that could unfairly hurt the powerless. A constitutional amendment could burden the Constitution with many entanglements. The courts are not part of the budgeting system. They have not been for 200 years and they should not be now.

Former CBO Chief, Alice Rivlin, testified before the House Banking Committee, Subcommittee on Economic Stabilization that:

Persistent budget deficits in the 1980's produced a slower-growth economy, trade deficits, and growing foreign ownership of U.S. securities and physical capital. If Americans are to live better in the future, they need to save more and channel those savings into productivity enhancing investment. If, instead, we continue to use our meager savings to finance government deficits, we can expect low investment, stagnant productivity growth, continued trade deficits and growing obligations to send interest, dividends and profits overseas.

We all want to reduce the deficit.

A recent General Accounting Office [GAO] report warned that if no action were taken to alleviate the deficit, real per capita GNP in 2020 would hold steady at about $24,000. On the other hand, if we balance the budget and keep it in balance, reap per capita GNP would rise to $32,555 by 2001.

I think the choice is clear. This is a time of change. People are demanding action. The current political climate should give us the wisdom to move forward toward balancing the budget but without a constitutional amendment.

□ 1910

Mr. FISH. Mr. Chairman, I yield 74 minutes, or the balance of my time, to the gentleman from Arizona [Mr. KYL], and further I ask unanimous consent that in his control of the time he may be able to yield time.

The CHAIRMAN pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KYL. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I rise in support of the balanced budget amendment being offered today. With a record-breaking deficit reaching $400 billion and our national debt at $4 trillion, it is time we pass this constitutional amendment.

Let me state these outrageous deficit figures in terms we can better understand. Were the national debt parceled out to every man, women, and child in America, each of us would be presented with a bill for $10,656. For a family of 4, the bill would be $42,624. In addition, the interest paid last year to finance the national debt totaled $196.3 billion, which was 119 times the amount spent last year on cancer research. Finally, the Federal deficit increased by $276.8 billion from 1980 to 1991. That means the deficit increased by $8,777.27 per second.

In the past 18 years, we have enacted the Congressional Budget Empowerment and Control Act of 1974, Gramm-Latta, Gramm-Rudman I, Gramm-Rundman II, and the 1990 Budget Enforcement Act. During that 18-year period, our national debt has climbed from $483 billion to $4 trillion today. We should learn from history that legislative statutes are not working.

In 1929, Federal spending was $3 billion per year or $29 per person. In 1992, we are spending more than $6,000 per person per year. Ask any American if he or she sees the $6,000 from the Federal Government each year, and I would have to guess that you could not find many Americans who feel they are getting $6,000 worth of Government.

My constituency, Mr. Chairman, is composed of factory workers, school teachers, longshoremen, farmers, ranchers, and middle-income blue-collar workers. These are everyday, hard-working men and women who are struggling to make ends meet. They manage to balance their personal budgets. Now, how can I go home and tell them that we, in Congress, cannot balance a $1.5 trillion budget?

A new Washington Post-ABC poll shows that 77 percent of likely voters support a constitutional amendment requiring a balanced budget as a means of controlling the size of the Federal Government. Some 90 percent of Texas support the balanced budget amendment to the Constitution. Taxpayers see this as their insurance policy against excessive Federal spending.

Those working against the amendment outside the Congress are primarily special interest groups who are seeking to preserve their access to Federal dollars. Those working against the amendment in Congress are primarily social architects who want no curtailment on the Federal purse.

In addition, opponents of the constitutional amendment have gone so far as to use scare tactics among senior citizens threatening them that an amendment would jeopardize their Social Security payments. The amendment does not change in any way the existing status of Social Security. The greatest threat to the long-term status of the Social Security trust fund is the rapidly increasing Federal debt. Further, interest payments on our debt will continue to crowd out other spending including Social Security.

President Bush has been pushing for a balanced budget amendment for at least 14 years. Likewise, I have supported an amendment ever since coming to Congress 12 years ago. I also firmly believe that granting the President line-item veto authority is essential if we are serious about reigning in the $400 billion Federal deficit.

As a cosponsor of the Kyl-Barton-Stenholm amendments, I support both of these approaches. Without firm language either limiting taxes or capping total spending, a balanced budget requirement could turn into an annual excuse to raise taxes.

If we do not take the necessary steps now, like passing this constitutional amendment, we not only limit our economic growth today, but also the future economic prosperity of our children and grandchildren.

Mr. MOODY. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Chairman, I rise in support of the Stenholm balanced budget amendment.

Mr. MOODY. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the balanced budget amendment and in particular House Resolution 290.

I will tell you what, Mr. Chairman. I have had the privilege to have been able to sit on the Budget Committee for the last 6 years and from this hot seat I have watched our committee and this Congress struggle with these tremendous problems of debt and deficits.

I have seen Republican Presidents browbeat the Congress about deficit spending, while never once submitting a budget anywhere near a zero balanced bottom line.

I have also seen this institution come up with rather ingenuous ways to duck and dodge some of these incredibly tough decisions; a little trust fund dipping here, a little off-budget sidestep there, winking and nodding, raising the debt ceiling, acceptance of rosy budget scenarios of revenue and growth projections, stretching out of all proportion Funk and Wagnall's definition of emergencies.

Mr. Chairman, I have seen efforts at statesmanship drown in avalanches of special interest mail.

I have seen this body lose its wiggle room, losing our ability to adequately respond as a quick response team, inadequately able to respond to domestic crises and catastrophes because we are basically caught in a fiscal straitjacket of unacceptably high interest and entitlement payments.

We borrow instead of invest. We postpone instead of decide, and we follow instead of lead.

That is why, Mr. Chairman, I have come to the conclusion that it is time that we pass the balanced budget amendment, because sad as it is, I think we do need a constitutional imperative.

It is way past time to make these tough decisions.

Now, a balanced budget amendment is an extraordinary measure, but Mr. Chairman, a $4 trillion debt is extraordinary.

Economic questions about the full faith and credit of our Federal Goverment in the bond markets is extraordinary, so these are basically extraordinary times; but I as one Member am under no illusions. I agree with our chairman, the gentleman from California [Mr. PANETTA] when he says that passage of this amendment is much easier than the choices we have to make later.

I would rather we had tied the two together today. We can vote for a balanced budget amendment tied to an enforcement mechanism to make it work. The enforcement mechanism, Mr. Chairman, is where the rubber wheel meets the road, so we should not just be allowed to walk out of here and pass any one of these budget amendments and just go home, because that is in effect giving the voters the okey-doke.

Mr. Chairman, we need a balanced budget amendment, but while we wait for ratification from the States, and I think that we should assume that it will be ratified, we must be about the business of affirming a budget schedule which takes us to a 1998 budget balance, a budget schedule based on the concept of shared pain and sacrifice where everything is considered, everything in and nothing out, including taxes, including entitlements, and yes, reductions in spending.

In conclusion, Mr. Chairman, just let me say that I do support House Resolution 290. It is a constitutional concern worthy of a constitutional response.

Mr. KYL. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman, time and time again, Congress has failed to properly manage the finances of the Federal Government. No State government, private company, or American family is permitted to irresponsibly and continually spend money it does not have. Why, then, should Congress be exempt from doing what millions of Americans do every month—balance their checkbooks.

For the sake of our children and grandchildren, we cannot allow our deficit and national debt to continue growing out of control. As it is, the interest on the national debt consumes an ever-increasing portion of valuable Federal revenues—money that could otherwise benefit Americans.

Allow me to give you a bill of particulars to show why a balanced budget amendment is necessary, now, to return accountability and fiscal discipline to our Federal Government.

In fiscal year 1993:

First, the largest item in the budget is interest on the national debt, which is 21 percent of all Federal spending.

Second, this is more than the total revenue of the Federal Government in 1976.

Third, interest on the national debt amounts to over $7,000 per family of four.

Fourth, interest on the national debt is equivalent to spending over $6 billion per week, $866 million per day, over $600,000 per minute, or $10,000 per second.

Fifth, interest on the national debt is 27 percent of all Federal revenues and totals 61 percent of all individual income tax revenues.

Sixth, the national debt has now topped $3.9 trillion. The Federal Government has run deficits in 53 of the last 61 years, and 30 out of the last 31 years.

Never has it been more clear than it is today, faced with a $400 billion deficit, that the Federal budget process has failed, holding neither the President nor the Congress accountable. Few would disagree that our current budget crisis warrants serious measures to return our budget process to fiscal sobriety.

I support enacting a constitutional check in the form of a balanced budget amendment with a Federal spending limit, to reduce the deficit by controlling spending, not taxing more. Congressmen get reelected by spending and they will continue to spend unless the Constitution stops them. Every day, Congress spends $1 billion more than the government receives. Currently, congressional spending goes on largely unchecked. To quote Dr. Walter Williams of George Mason University, "A balanced budget amendment, without a spending limit provision, will simply be a way of justifying the further tax gouging of Americans." Congress has balanced the budget only once in 30 years but has raised taxes 56 times. Citizens Against Government Waste has said, "The Kyl-Allen amendment will not only eliminate the deficit but it will also put a halt to the non-stop increases in Federal spending and taxes of the last 50 years which are now threatening our very way of life."

I respectfully submit that the Kyl-Allen balanced budget amendment affords the taxpayers the best protection from the profligate taxing and spending habits of Congress.

The Kyl-Allen amendment, which will be offered tomorrow by Congressman FISH as the Republican substitute, will limit Federal spending to 19 percent of the gross national product. Most important, this provision provides an incentive for Congress to implement positive economic growth policies. As the Nation's economy grows, so will revenues of the Federal Government. American families should not be saddled with a heavier tax burden, but rather Government should prioritize and eliminate extraneous spending. Curbing Federal spending is a long-term solution to our staggering Federal debt. Kyl-Allen protects taxpayers by requiring a 3 to 5 vote of Congress to exceed spending limits or violate the balanced budget provision.

For short-term and long-term effectiveness, the President should be given the authority that 43 Governors have, the line-item veto. The line-item veto would prevent Congress from spending scarce Federal dollars on wasteful, often ridiculous programs. The President should be able to cut the fat from the meat of enormous appropriations bills. Just as important, the line-item veto would increase accountability within our Government and shed a scrutinizing light on the pork barrelling that is so prevalent on Capitol Hill. Lou Uhler, president of the Tax Limitation Committee, said, "It's about time, if we're going to ask the President to share the rap for out of control spending, that we give him a tool to control it. The line-item veto would do just that."

The President's exercise of the line-item veto, and Congress's attempt to override one, would be subject to public scrutiny. If the President had a line-item veto, he would be held accountable for the pork barrel legislation that crossed his desk and, similarly, every Congressman voting to override or sustain the veto would be accountable to their constituents. Both the President and the Congress would be responsible for the consequences of their appropriations. The American people are outraged at some of the frivolous studies and projects the Federal Government subsidizes with their tax dollars and they overwhelmingly support granting the President a line-item veto.

Fiscal irresponsibility and lack of Government accountability have necessitated a balanced budget amendment. As Mr. Jefferson wisely cautioned, "In questions of power, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution." I urge my colleagues to support the only balanced budget amendment to the Constitution which contains a spending limitation, taxpayer protection, and a line-item veto provision. Support the Kyl-Allen substitute.

□ 1920

Mr. SMITH of Oregon. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the Stenholm-Smith balanced budget amendment. This Congress has passed many laws as a means of balancing the budget, and all of them have been dismal and complete failures. That is because Congress made such laws knowing it could change the laws, and they did; they could repeal them, and they did; and they could ignore them, and they did that too.

But, Mr. Chairman, even Congress cannot ignore the Constitution, and that is what we are talking about.

In a recent article, columnist Michael Kinsley referred to comments that the balanced budget amendment is a cruel hoax because the public is not being told what the balanced budget would entail. But Kinsley asks, "But is it a cruel hoax?" It would be, he states, "if the three-fifths' escape clause became a routine exercise. But if the amendment produced actual fiscal discipline even for 4 or 5 years down the road,' and that is going to be the length of time we are talking about, "it would be a kind hoax, not a cruel one. Sort of like enticing a beloved relative into a drug treatment program."

Mr. Chairman, until there is a constitutional mandate on Congress, Congress will not balance the budget in this century or any time in the foreseeable future.

Again, I will quote Mr. Kinsley. He points out that there is "a cowardice in Congress," which causes us to refuse to face up to the problems we have. But he states, "That cowardice will catch up with them," meaning the Members of Congress, "one way or another. They'll either have to face the music in 4 or 5 years or retire in order to avoid it. In fact, a balanced budget amendment could make that other constitutional cureall—term limits—superfluous." Obviously, it is not going to be easy, what we will have to do after passing this amendment. Even now, as public support for a balanced budget amendment is swelling and Congress professes to have seen the light or at least to have felt the heat, it still ardently resists giving up its pork-barrel spending habits, sort of like an alcoholic who does not know he is sick. But it should not be surprising. I will quote Kinsley again. He rightly observes that voters are at times "hypocrites about Federal spending, hating it in general, cherishing it in particular. Politicians of both parties cater to this hypocrisy."

Unfortunately, liberal overspending has now paralyzed this body. We now spend $300 billion just to pay interest on the national debt. We have not balanced a budget in 23 years in a row, for 31 out of the last 32 years. And even at this time, those who have the power of leadership in both Houses of Congress are working assiduously to convince us to listen to them and save their power to borrow and spend even more and more.

Mr. PANETTA. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today because I am deeply troubled by the steps that this House is about to take. I, for one, cannot and will not support a constitutional amendment to balance the budget.

Our Constitution is an extraordinary document. Our Constitution is sacred. Our Constitution is the only document of its kind in the world to have lasted so long and to have been used as a model so often. Our Constitution works.

Make no mistake, I want a balanced budget. Like everyone else, I don't want our children and unborn generations to bear the burden of the budget deficit and increasing national debt.

But I believe we must deal with this issue in a responsible and sensible way. Last week, this body had the opportunity to cut the budget with the Durbin amendment. That amendment would have resulted in a $1 billion cut in the SDI program. Yet, this body did not pass it.

I think it is the height of hypocrisy for some of us to stand up and champion the constitutional amendment to balance the budget, and yet many of us will not vote to cut unnecessary defense spending.

The Constitution should not be altered or amended just because it appears popular to do so. It should not be amended just because the President is unwilling to submit a balanced budget or because the President does not want to be blamed for budget cuts. It should not be amended just because the Congress does not have the nerve to pass a balanced budget.

This is not the time to give the American people a sense of false hope and false peace that somehow or someway, by doing the easy, political snow job, we will be off the hook. We must tell the American people the truth.

What is needed is not an amendment to the Constitution. What is needed is courage. Nothing but raw courage.

The budget problem that we have in America did not happen overnight. It took 12 long years of steady, deficit-building. It will not be fixed overnight. It will not be resolved by some quick-fix, pie-in-the-sky gimmick.

To cast a vote for a constitutional amendment may make us feel good and look good back home. For sure, it will win us a few votes. But, it is the cowardly way out.

A constitutional amendment is not the answer.

□ 1930

Our budget problem is a serious problem. It calls for serious and thoughtful resolution, not a gimmick.

We can not—and should not—try to use the Constitution as a fig leaf to cover our own follies.

Now I realize that the Constitution is a flexible and evolving document. But every time we face a lack of courage, we should not use the Constitution as a panacea, as a cover or as a cure-all.

To pass a constitutional amendment to balance the budget, in my estimation, will do injury. It will cheapen the Constitution. We owe it to the American people to respect and preserve the Constitution, not just for today, not just for tomorrow, but for unborn generations.

Mr. KYL. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, Thomas Jefferson was not in attendance at the Constitutional Convention. He was Minister to France. But when he read the Constitution, he thought it was a pretty good Constitution. However, he said it had two defects. He said it needs a Bill of Rights, and it needs a prohibition against the Government incurring debt.

Mr. Chairman, Thomas Jefferson was right on both counts because Thomas Jefferson, that great political philosopher who had such great faith in the people, also had an understanding of human nature, and that is why he distrusted elected officials. That is why he said, "In questions of power, let no more be heard of confidence in man, but bind him down from mischief by chains of the Constitution."

That is what we have to do, Mr. Chairman, because this body and the executive branch have shown themselves incapable of balancing the budget without an external discipline imposed by the Constitution.

Have you ever seen the bumper sticker that says "We're spending our children's inheritance?" Well, that is exactly what our generation is doing. We are consigning our children and their children to a lower standard of living than they might otherwise have had, perhaps a lower standard of living than our own. We are consigning them to live in a nation that is less competitive, less productive and whose government is shackled by the obligation to pay interest on a debt that we incurred to pay for our current consumption.

So, for that reason, Mr. Chairman, I believe that a balanced budget amendment is not an economic proposition only. It is a moral proposition. It is entirely consistent with the tradition of our Constitution, going back to the Bill of Rights, that we have got to restrain our leaders to protect the common good.

Our constituents are very angry at Congress for a number of reasons. But

one very important reason is that we find ourselves unable to do what they have to do, what every family has to do, what every business has to do, indeed what every State government has to do, and that is to live within our means.

I think all of us know why we cannot do that. It is because the public interest in balancing the budget is overcome by the multiplicity of well-focused, well-funded private interests which have their own specific agendas.

Prof. James Buchanan of George Mason University recognized that phenomenon. He won a Nobel Prize in economics for explaining why individual Members of Congress find it in their political interests to be fiscally irresponsible even when they recognize it is not in the public interest. However, you don't have to be a Nobel laureate to understand the problem or to know the solution: bind them down from mischief by the chains of the Constitution.

Mr. MOODY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I rise today to express my support for the measure being advanced by my able colleague, Representative STENHOLM, a constitutional amendment to balance the Federal budget.

Let me at the outset express my respect for the chairman of the House Budget Committee, Mr. PANETTA, who has made the argument that we ought to be debating the policies and choices needed to reach a balanced budget. He could not be more right. This amendment will force a debate on policies and choices that is necessary, and long overdue. That debate need not take place and be concluded today or tomorrow as the chairman of the Budget Committee suggests. With this amendment, the debate will take place in a responsible way, at the right time. To suggest that a constitutional amendment somehow diverts us from that task is off target.

The question we face today is this: How do we get our Government—the executive and legislative branches—to focus on the difficult policy choices needed to balance the budget? It is a plain fact that we have not been able to do this for years now, and our deficit has grown to alarming proportions. The deficit threatens prosperity today and into the future by forcing us to live off capital, rather than create new capital to make us productive.

I strongly disagree with the idea that a vote for the amendment is just another promise to our constituents that we will balance the budget. A balanced budget amendment will turn this Government in the direction of fiscal responsibility. But let us be clear on the House floor and to our constituents. When Government spends $4 for every $3 it takes in, balancing the budget will take sacrifices from us all, and hard choices in the process.

Let us be clear to our constituents on another point: This amendment represents the beginning of a challenging process for our Government, and one that will take time. It is not an overnight fix to our deficit problem. The Stenholm amendment will require two-thirds approval in the House, two-thirds in the Senate, and ratification by three-fourths of the States. That will take time, but we all should agree that the process must begin—not only with passage of this amendment but with meaningful deficit reduction by Congress and the President. It we do not act, then our deficits will continue to grow. We owe it to posterity to make some changes. The reward will be great—a better standard of living for ourselves in the future and, more importantly, for our children and grandchildren.

Mr. MOODY. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, the good news in this debate is that almost everyone agrees that we need to have a balanced budget. The issue is, how do we achieve this urgent goal?

Last fall, the Budget Committee sought to find a way to balance the budget. Chairman PANETTA held almost 40 bipartisan caucuses, during which we studied every area of the Federal budget, looking for savings. The committee's report on this process, "Restoring America's Future: Preparing the Nation for the 21st Century," set out a course of action eliminate the deficit by the year 2001.

It was disappointing to me that, after all of our efforts, the report received so little attention and interest. It garnered only a small article on the back pages of the Washington Post. In addition, the fiscal year 1993 budget resolution did not address the need for further deficit reduction. Most importantly, no one on the Presidential campaign trail has seriously addressed a way to reduce the deficit.

What can be more compelling than the fact that our annual deficit is growing at a rate of $756,000 every minute of every day and that our deficit problem is not going away?

The recent resurgence of attention to the balanced budget amendment has returned the deficit issue to its rightful place at the forefront of national interest. Passage of the balanced budget amendment will ensure that the deficit issue is never again ignored.

I am a cosponsor of House Joint Resolution 290, the balanced budget amendment sponsored by Mr. STENHOLM. This amendment has been carefully crafted over the last decade.

There are some who would contend that we don't need to pass a constitutional amendment to ensure that Congress and the President remain committed to deficit reduction. I agree that a balanced budget amendment will not instantly give us the leadership necessary to eliminate the deficit. But, the balanced budget amendment will give us the needed framework to see that we reach our goals. The amendment not only sets forth the framework of a balanced budget, but after we achieve a balanced budget, the amendment will ensure that the budget remains balanced.

This is an important goal for our Nation. As the Budget Committee has held hearings on our Nation's fiscal health, economist after economist have said over and over again how crucial it is for us to balance the budget and stop spending the Nation's savings. Deficit reduction is an indisputable public policy objective.

When we buy things we are not willing to pay for, we leave the responsibility for correcting our irresponsibility to our children. A balanced budget amendment will protect the rights of our children and the unborn. Thomas Jefferson has spoken at length on this need for us to be responsible to future generations. I grew up within a few miles of Monticello—Mr. Jefferson's home—and I hold very dear his teachings. We should listen carefully to his counsel.

Mr. Jefferson recognized that, if we balance the budget, we will have the resources needed to invest in our country. In a letter to Albert Gallatin, he said:

> I consider the fortunes of our republic as depending, in an eminent degree, on the extinguishment of the public debt. That done, we shall have revenue enough to improve our country in peace and defend it in war.

Yet, in the same letter, Mr. Jefferson feared what might happen under the situation we now face. He said:

> If the debt should once more be swelled to a formidable size, its entire discharge will be despaired of.

Some would like to let our despair of the current situation, particularly the cuts and reforms needed to reduce the deficit, prevent us from doing what is needed. We cannot fear doing the right thing. Enacting the balanced budget amendment and then working together in a bipartisan fashion to achieve a balanced budget is the right thing for our country and future generations.

I urge my colleagues to vote for House Joint Resolution 290, the balanced budget amendment, when it is voted on tomorrow.

□ 1940

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume to tell my friend, the gentleman from Virginia [Mr. PAYNE], that Thomas Jefferson, without a constitutional amendment, reduced the debt by 25 percent when he was President.

Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Chairman, I rise in strong opposition to House Joint Resolution 290, a balanced budget constitutional amendment, and to the various substitutes.

Our Constitution is not the problem. It has served our country well for over 200 years. Placing a straitjacket on the Constitution is irresponsible—reckless—and simply wrong. The Constitution must not be tinkered with.

A constitutional amendment will not balance the budget. It will not mandate political will or courage. It will not create the necessary leadership.

But what it will do is trivialize the Constitution. It will irreparably damage the separation of powers—fundamental to our Founding Fathers framing of the Constitution. It will bring the Supreme Court into the budget decisions—further complicating the process. And it will dump more Federal responsibility on the State and local governments—forcing them to dramatically increase taxes to maintain services. Finally, what a balanced budget amendment will do is to avoid the real responsibility of having to make the hard choices.

By voting for a balanced budget amendment—you may think you can convince the American people that you are doing something about the $400 billion deficit—and the $4 trillion of debt—$3 trillion of which was accumulated in the last 12 years.

You may think you can go home to your district and tell your constituents that you are doing something about our Nation's No. 1 problem. But to my distinguished colleagues, I say you are only fooling yourselves. We must tell the American people the truth.

The financial markets—over 400 leading economists including seven recipients of the Nobel Prize—State and local governments—and the American people know that the balanced budget amendment is another false promise—filled with high expectations—made at election time to placate the voters.

Supporters of this amendment argue that a balanced budget amendment is the only solution left to get our fiscal house in order. This is wrong.

Let us seize the moment to make the hard decisions necessary to put our country on the road to fiscal sanity now—not 2 years from now—not the 5 years that it will take to complete the constitutional procedures—but right now. It may be a long, difficult road to enactment, especially when the States and cities become aware of its consequences to their own budgets.

As a member of the Budget Committee—I have been working with Chairman PANETTA and the other committee members in an effort to achieve real deficit reduction now. Which means we must cut an additional $600 billion from the budget in order to balance it by 1997.

The way to achieve a balanced budget is clear—and simple. There is no way around it. We need to control the growth of entitlement programs. Perhaps we should establish a blue ribbon entitlement commission and make the tough decisions by means of testing our programs that are out of control—most of all, we must have a national program for affordable health care. It is shameful we are in a state of paralysis over passing meaningful cost containment for health care.

Military expenses should and can be cut deeper—our allies must pick up more of their share of the defense burden.

We need to freeze spending now and prudently plan our domestic agenda. And we need to ensure that the more fortunate pay their fair share. We need to change our priorities—moving from a cold war budget to one which invests in the rebuilding and renewing of our Nation.

There is no quick fix—there will be plenty of sacrifices. I believe our people will respond if the sacrifices are fair and across the board.

One thing is certain—fiscal responsibility and the priorities for our Nation must begin with the President. Reagan never sent Congress a balanced budget. And Bush has not either. We are failing in leadership. Congress by its nature is a consensus body and is not equipped to lead as effectively as the President.

The budget can begin to be balanced right now. Gimmicks won't do it. Political will and courage is what it will take. Our people deserve better government than they are getting.

I urge my colleagues to do the right thing—oppose the balanced budget amendment—and have the guts to work for immediate deficit reduction today and not another tomorrow.

Vote "no" on these damaging amendments to our Constitution.

Mr. MCEWEN. Mr. Chairman, today is a hallmark in American history. The passage of the balanced budget amendment in the House marks the beginning of the end of our chronic budget deficits.

I repeat, today is the beginning of the end. It is only a beginning, and a lot of work, years of struggle, remain before us.

Chronic budget deficits permit today's citizens to borrow from future generations of Americans. For decades, the Federal budget has been in deficit. Often, massive deficits.

Blame anyone you want. You can blame Ronald Reagan if you like. You would be wrong, of course. Tax revenues increased by an average of 7.5 percent per year during the 1980's.

The fact is, whatever the cause, deficits borrow from future generations. They impose an obligation on tomorrow's taxpayers.

Obviously, the taxpayers of the mid-21st century can't vote now—maybe that is why deficits, borrowing from them, has become a staple feature of our Government.

That really is at the heart of this debate. Tomorrow's taxpayers, our children, and even their children, will be the ones who pay for the debt we leave behind.

Obviously, some debt can be the result of wise investment. For example, most medical students go heavily into debt to pay for their education. It is usually a good investment because they will earn more than enough to pay off the debt, with interest.

Most families go into debt, through their mortgage, to buy a home. A home has traditionally been a good investment for American families. Along with a place to live, they have often increased in value.

A nation, during wartime for example, may have to borrow to protect the future. Would anyone disagree that today's taxpayers would be happy to repay the debt acquired to defeat nazism and fascism, and keep America free.

The balanced budget amendment protects the right to borrow to improve the future through two provisions:

First, it permits a budget to be in deficit if both Houses of Congress vote with a three-fifths majority for that budget.

Second, it does not require a balanced budget during wartime.

The Constitution is designed to protect the rights of those who cannot protect themselves. Freedom of speech and freedom of the press protect the rights of those with unpopular opinions.

The Constitution establishes a framework of government that is conducive to protecting rights.

We repeatedly hear that a balanced budget amendment will in some way demean the Constitution. I believe that is wrong.

The fact is, the Constitution is the political document that protects rights. That is exactly what we are doing here. We are protecting future generations from being handed an outrageous debt burden that has not had overwhelming support from current citizens.

We do not protect the right to freedom of religion, speech, press and the rest through flimsy statutes. Those fundamental rights are protected in the Constitution. The right of tomorrow's Americans to be protected from an overwhelming debt burden is also a right.

Therefore, just as Thomas Jefferson recommended, we need a balanced budget amendment.

The real struggle will obviously be fought out in the coming years. How do we get to a balanced budget—if we ever can.

On one side, there are those who say the Federal Government gets its hands on enough of the wealth of this country as it is—and we do not need that grip on our economy to get any tighter. Instead, families and taxpayers should be left alone to keep more of what they earn.

I place myself in that camp. Therefore, I support the Barton amendment, and the Kyl amendment, along with the Stenholm amendment.

On the other side are those who believe that the Federal Government knows best. The Government, the wise people here in Washington, whether elected, appointed or in the Civil Service, are best able to determine what's good for families, and the Nation as a whole.

These people believe needs should be met by the Government, through resources taxed from working people. If we have deficits, it is because more needs exist than are being met by taxes, so we need to increase taxes.

As it is, the Federal Government taxes $1 in every $5 in this country. I think the Federal Government getting its hands on 20 percent of income is quite enough. I do not think we need any increase in Federal taxes.

Taxing more or spending less. That will be the real fight.

The balanced budget amendment, when ratified by the States, will take away what has been the easiest answer—pass the cost along

to the future. Hopefully, this Congress will be forced to make a tough choice, and stop passing the buck to the future.

I applaud the passage of the balanced budget amendment, and I look forward to the tough battles to come.

Mr. KYL. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, having introduced in 1981 the then equivalent of the Stenholm amendment, on my first day in Congress, I am pleased to rise here today in strong support of the amendment.

Some Members have suggested that enacting this balanced budget amendment will trivialize the Constitution. We should remember that the Constitution of the United States was ratified without amendments. That is right, it was ratified without the Bill of Rights—that came 3 years later. Why did not it include the Bill of Rights? Many folks were of the mind that the Bill of Rights simply was not necessary. The Constitution was already complete, and it laid out the separation of powers—with all its checks and balances—so well that individual liberties would be protected through the tripartite structure alone.

We did not need to trivialize the Constitution—as some folks term the amendment before us today—then anymore than we do now. But we still enacted the Bill of Rights—protection of speech, protection from unreasonable search and seizure, and assurances of due process of law—because folks knew that even though the Government could protect individual liberties, it needed the constitutional amendments to make sure that it protected our liberties.

The situation is the same today. Maybe we do not need to amend the Constitution to balance the budget; sure, the Congress has the power to balance the budget. But it has not. With one year's exception, we have had deficits for the past 30 years, and Congress has not yet seen fit to balance the budget. The Government needs this constitutional amendment to make sure that it balances the budget. We do need the forcing mechanism.

The Constitution is fundamental law; indeed, it should deal only with fundamental questions. I agree with Thomas Jefferson:

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

Imposing a crushing debt on future generations is anything but trivial. Vote for the Stenholm substitute; our children deserve no less.

□ 1950

Mr. SMITH of Oregon. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, tomorrow we are likely to pass the most significant piece of reform legislation that this House has passed in decades. That is with passage of the balanced budget amendment to the U.S. Constitution. Every Member of Congress understands today that the American people are angry at Congress, and they are angry at all levels of government.

Whether it is the level of taxes, whether it is ineffective government programs, government red tape, bureaucracy, government waste, I think we have succeeded in giving the American people more Government than they ever dreamed they wanted.

To do this, government at all levels today confiscates 43 percent of the Nation's income in taxes. Add to that the cost of regulation that government imposes, and today government is using over half the Nation's income each and every year.

And guess what? They are all broke. They all want more taxes. When, my colleagues, are we going to stop this process?

The opponents to the balanced budget amendment have used scare tactics and political mischief to try to scare people away from this. They are saying this amendment will not balance the budget. They are saying that we will not make the tough choices with the passage of this.

Mr. Chairman, this debate is not about how to balance the Federal budget. This debate is about whether Congress will, in fact, balance the Federal budget. This debate is about whether Congress has the will to balance the Federal budget. And this debate is about whether Congress should discipline ourselves and discipline our future Congresses in controlling the spending of government money.

Earlier today I was thinking, if our Founding Fathers knew then what we know now, in my opinion there is no question that this would be part of the original Constitution. Forty-nine States have the discipline imposed on them in their State constitutions to have a balanced budget. Congress needs this same discipline today, if we are going to be serious about balancing the Federal budget.

Mr. Chairman, the American people want change. The American people want reform. Tonight the American people want a balanced budget amendment to the U.S. Constitution.

Those who support the status quo will continue to block any meaningful reform of government. if those opposed to a balanced budget amendment are successful, the frustration of the American people will only grow worse. I ask my colleagues to prove to their constituents that they are on the side of change and vote tomorrow for a balanced budget amendment.

Mr. MOODY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Chairman, 1991, one of the greatest years in American history, America won the cold war. The makeup of the world is changing. We are the surviving superpower. Nations everywhere today are wanting to emulate us, our democracy, our capitalism.

Our military is No. 1. Our economy is No. 1. Our economy is bigger than that of Germany and Japan combined. This year we are selling more to the Europeans than we are buying from them. We can remain at the forefront of leadership as far into the future as the eye can see if, if we can get our fiscal house in order in this government.

There are those who say, do not tinker with the Constitution. Just do it.

Well, we do not have the discipline to just do it. During the mid-1980's we passed the Gramm-Rudman legislation and for 2 or 3 years there we actually reduced the deficit. And then a year approached where hard decisions were going to have to be made. President Bush, the Democratic leadership, neither wanted to address and make those cuts or raise those taxes or a combination.

So they got together in the great meeting at Andrews and did away with Gramm-Rudman, came up with a new plan. Unfortunately, that new plan has given us a $400 billion deficit.

Mr. Chairman, I think it is absolutely essential that we must have an amendment to the Constitution requiring a balanced budget, if we are going to restore fiscal responsibility to America.

Mr. KYL. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, we know the country is financially bankrupt. That is why nearly 80 percent of the American people want to constitutionally require the politicians in Washington to balance the national budget. And how do those Washington politicians react to the wishes of the American people?

We have heard from some of those politicians today. They admit that their policies, programs, and proposals are as bankrupt as the budget. Have my colleagues heard them and their intellectually bankrupt arguments?

First, we have heard them say, we should not pass a balanced budget amendment because we should not burden the Constitution in such a way. Instead, they say, let us just show some courage. Of course, it is the same courage they have shown us before. Do not be fooled by them.

They have had plenty of opportunities to vote for real balanced budgets.

I can remember time and again real balanced budgets being brought to the

floor in the budget process; not brought out of the committee where the spenders prevail, not sent even up from the White House, but brought to the floor by Members who worked over them, Members like the gentleman from California [Mr. DANNEMEYER] who gave us a chance to vote for real balanced budgets in the budget process. And what did we find? We found a handful of Members, maybe a few dozen Members who were willing to vote for balanced budgets.

That is the kind of courage we have here. That is the kind of courage we will continue to show if we do not do something that actually requires real balanced budgets on the floor to be voted on as a constitutional provision.

Another thing these politicians tell us is, we could not live with a balanced budget. Such an amendment would cause cuts in our spending programs. Let us face it, my colleagues, spending is an addiction in the Congress. Politicians would be left without their fix if we actually had a balanced budget amendment to the Constitution. But if we kicked the habit, we could live with the balanced budget amendment, and that is what the American people want us to do.

Another thing we have been told here today by these politicians that will not have us balance the budget is that we cannot deal with the balanced budget amendment. There is no way, they claim, to enforce such provisions. Of course, we could carry it out if we wanted to.

Let me give my colleagues an example of how. Some of us recently put a bill in that has a debt buydown approach. What we say is, we are going to let the American people get in on the process. We are going to allow the American people on their 1040 form to designate up to 10 percent of their taxes toward buying down the permanent national debt. The money would be put in a trust fund to buy it down. But, oh, by the way, as we bought down the debt, we would also cut spending by the same amount that the American people decided to buy down the permanent debt.

We have run it by CBO. CBO says if such a program worked optimally that it would, in fact, balance the budget in a 5-year period because we would get tremendous spending cuts.

Beyond that, within a 12-year period we have bought down two-thirds of the permanent national debt, and the Federal Government is running a surplus in its budget.

□ 2000

We can do some things like that. It is a new idea. It is a different kind of idea than the big spenders in the Congress want us to adopt, but the fact is we could do something to live with a balanced budget amendment to the Constitution if we really wanted to. There are ideas out there, fresh ideas, but we are not hearing those.

"Shouldn't, couldn't, can't; shouldn't, couldn't, can't." We have heard that over and over again during this debate. Those are the negative words of people who have run out of ideas. Those are the politicians who have no vision for the future and only special interest concerns in the present. Those are the people who are trying to defeat the balanced budget amendment to the Constitution by running around and trying to buy votes by promising committee assignments to people and promising them other goodies.

That is how this battle is being won on the floor, not on ideas, because their ideas are bankrupt. So what they have resorted to is going into the back rooms and telling people, "We can give you an assignment on the Committee on Ways and Means if you can stick with us here; he will give you one of the slots on the Committee on Appropriations if you can stick with us here; you might get on the Committee on Energy and Commerce next year if you can stick with us on this vote." That is how this battle is being engaged, in the back rooms, not on the House floor, but in the back rooms where the decisions are being made.

We must pass a balanced budget amendment and get started with a fresh start. The Kyl-Allen approach that is before us actually even gives us the opportunity to use the line item veto as a fresh way of approaching spending reductions.

I am tired of politicians that cannot get the job done but want to have us go on doing the same old thing in the same old way. The American people are tired of such politicians, too. We have a chance right here to start off in a new direction. We can require a balanced budget.

Mr. SMITH of Oregon. Mr. Chairman, I am delighted to yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING], an outstanding Member.

Mr. BUNNING. Mr. Chairman, I rise in enthusiastic support of the balanced budget amendment to the U.S. Constitution.

Passing a balanced budget amendment has been one of my top goals for the past 5½ years. I sincerely believe it is one of the most important things we can do to get this country back on the right path.

Unfortunately, a lot of groups are here today trying to use fear—trying to use lies—trying everything to keep Congress from passing this vitally needed resolution.

It particularly bothers me to hear groups that supposedly represent senior citizens telling their Members that the balanced budget amendment is a threat to Social Security. That is an outright lie.

The truth is that a balanced budget amendment would be the finest guarantee possible that the Federal Government will, in fact, be able to honor its commitments to our senior citizens when we get down the road 10, 20, 30 years from now.

The largest single threat to the Social Security system is and always has been deficit spending—the constant flood of red ink that Congress keeps pumping out.

A balanced budget amendment to the Constitution would not—would not—jeopardize Social Security benefits. It would not result in Social Security cutbacks. Anyone who suggests otherwise is not telling you the truth.

But this is not just an issue for the elderly. In fact, my primary reason for supporting the balanced budget amendment is because of our children and grandchildren—the future generations of America.

I have 9 children and 20 grandchildren, and the cruelest possible thing we could do to them, or to your children and grandchildren, is just to keep doing what we have been doing.

The cruelest thing we could to our children and grandchildren is to continue adding to the pyramid of debt that is pressing down on their futures like a dead weight.

This amendment is change—this amendment is reform—a major congressional reform. This amendment is a bright neon promise to our children—our grandchildren and to all future generations—that Congress has finally gotten the message and that we are going to do something to turn things around and change the way we do business in Washington, DC.

I urge my colleagues to vote for reform—for change—and for a balanced budget for our children.

Mr. PANETTA. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Chairman, I thank the distinguished chairman of the Committee on the Budget for yielding me this time.

Mr. Chairman, 156 years ago on a cold gray morning in 1836 a small band of courageous men demonstrated that they had what it took to balance the budget, and it was not a constitutional amendment. It was courage. Col. William B. Travis drew a line in the sand, and my friend, the gentleman, knows, he is from Texas. He put courage on one side and fear on the other side.

We as Members of Congress from Texas are heirs to that legacy of courage, but four-fifths of the members of the Texas delegation have not found that courage because they are cosponsoring an amendment that is about everything but courage. Courage is what it takes to balance the budget.

Texas is not part of the solution here, it is part of the problem. Let me tell you why. The superconducting super collider is in Texas. It cost the American people $12 billion. The space

station will cost somewhere between $30 and $100 billion. Where does it go? It goes to Texas; the V-22 tilt rotor aircraft, $500 million after Secretary Cheney has already tried to eliminate it and said we did not need it.

The B-2 bomber is not built in Texas, but many of the parts come from there; $7.2 billion going to Texas. The C-26 transport aircraft, $200 million this year, going to Texas; the F-A/18 air fighter, $300 million, going to Texas; Government-established target programs for agricultural subsidy, $3.25 billion going to Texas over the next 5 years; honey, wool, and mohair subsidies, $1.22 million that my colleagues from Texas asked for.

We do not have the courage to say no. We can balance the budget if we stop getting all these pork barrel programs going to our States, so let us have Texas say no and stop coming and hounding our friends in the Congress for all these programs to take back to Texas.

Twenty-one people from Texas have the courage to stand up and sign a resolution, but they do not have the courage to stand up and say no to their constituents. We do not need more programs for Texas.

Sematech goes to Texas. They begged for naval stations. They begged to keep the Air Force bases open. They begged to keep the Army bases open. They begged for superports. They begged for highway money. They begged for metropolitan transportation money going to Texas. But they do not want to balance the budget with that. They want to balance the budget with money from some other States. They do not know how to say no.

A constitutional amendment is like a child giving its allowance away and saying, "No matter how much I want candy, how much I want this, how much I want that, don't give me any of my money." It is childish.

What are we going to do and who is going to help to fight crime and drugs, give money for infrastructure, give money for health care? Do the Members think these people who are going to vote for this constitutional amendment are going to somehow get religion and come back and vote to protect mothers, vote to protect children, vote to protect the environment? They have not done it since I have been in Congress. They are not going to do it while you and I are both in Congress.

Let me say this in closing. If the people from Texas had no more courage 156 years ago than 21 of my colleagues from Texas have today, we would never have heard of the Alamo.

Mr. KYL. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, tomorrow this House has the urgent challenge to change history. Unless we act, continued budget deficits will destroy America.

Through 1974, the budget deficit exceeded $40 billion a year on only three occasions—all during World War II. But, from 1975 on, it has exceeded $40 billion every year and this year it will be nearly 10 times that amount.

Just 10 years ago, the national debt exceeded $1 trillion for the first time. Now it has risen to nearly $4 trillion and, unless remedial action is undertaken, it will approach $6 trillion by 1997.

In 1974, interest payments on the national debt averaged just over $257 for every tax return filed. By 1990, just 16 years later, that figure had risen to $1,751 per return.

Today, interest payments on the debt consume nearly 60 percent of the individual income taxes we pay each year—if you count interest paid to Federal trust funds holding Government securities. And they nearly equal taxpayer contributions to the Social Security and disability insurance trust funds.

These figures underscore the need for an effective balanced budget amendment to the Constitution. Some will argue, however, that we do not need a constitutional amendment at all; that a statute requiring a balanced budget is sufficient; self-control is all we need.

Self-control has been found wanting. Statutes have failed.

The current 18 year run of big deficits began the year after a budget control statute—the Budget Impoundment and Control Act of 1974—was enacted.

None of the five deficit reduction statutes adopted since then—including Gramm-Rudman-Hollings Acts and the 1990 Budget Enforcement Act—have resulted in the balanced budget each promised.

Why? We have been unable to say no. There are 435 of us here, and together we have more good ideas for spending money than there is money to spend.

The failure of statutes, the lack of self-control, has brought us $400 billion deficits—hand in hand with 95-percent-plus reelection rates.

Mr. Chairman, by now it should be clear that Congress will act differently only when forced to do so by higher authority. And the Constitution is the only place where higher authority can be found.

Put simply, there is no alternative. To arrest our slide toward insolvency, we must employ the only weapon we have left in our budget-cutting arsenal—a constitutional amendment to balance the budget. I strongly urge my colleagues to support Barton-Tauzin and, if it fails to get two-thirds Kyl-Allen; and if it fails, Stenholm-Smith.

□ 2010

Mr. MOODY. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Chairman, I rise in opposition to the constitutional amendment for a balanced budget.

Mr. Chairman, I rise in opposition to House Joint Resolution 290, the constitutional amendment that would require a balanced Federal budget.

My decision comes after much soul-searching and is perhaps one of the most difficult decisions I have made as a Member of this body, but my reasoning comes down to one basic fact. A constitutional amendment to balance the budget is simply unnecessary.

It is unnecessary because we can do the very same job on our own, without a constitutional amendment.

Why have we not balanced the budget? Why do we have a deficit of $327 billion? Why do we have a national debt of almost $4 trillion? Because of a lack of political will and leadership, the kind of leadership that comes from the one person with the responsibility of meeting the divergent needs of all Americans: the President of the United States.

In my 10 years in Congress I have never seen a budget submitted by a President that was remotely close to being balanced. In fact, I have seen budget proposals that a majority of members from the President's own party have been unable to support.

We don't need a constitutional amendment compelling us to balance a budget. We need political will and Presidential leadership. We need a serious decisionmaker to make serious decisions.

This President has certainly demonstrated he has that capacity for leading a nation, when it comes to foreign affairs.

This is the President who led America to war. He inspired an entire nation and indeed the world to oppose aggression in the Middle East. And most important, he convinced a majority of the U.S. Congress to send American troops to the Persian Gulf. When the President led, the Nation and Congress followed.

He aroused an entire nation. He hit the airwaves, he outlined a plan. He provided motivation. He persuaded the Nation that war in the gulf was right.

Only the President can provide the leadership necessary to rally the American people and the Congress again, this time for responsible deficit reduction.

Yet he has failed to convince.

We do not need a constitutional amendment to balance the budget, we need a President who will convince the American public that tough budgetary decisions need to be made to reduce the budget deficit and return the American economy to prosperity.

I hope this constitutional amendment does not become law but what will happen if it is approved by the House and the Senate, is ratified by the States, and does become law?

The House Budget Committee says we would have to eliminate a $600 billion deficit by 1997. How would we do that? Would we generate $300 billion in revenues and mandate $300 billion in cuts? Would we raise taxes without making spending cuts? What taxes would we raise? How high would they go? Would we tax middle Americans more? Would we tax Social Security benefits? Would we raise the gas tax? Would we put an additional tax on unemployed workers who are al-

ready paying tax on their unemployment compensation?

What if we decide not to raise the revenues? That would mean $600 billion in cuts. Defense cuts will not generate enough. So we turn to nondefense discretionary spending? What will that mean to services we take for granted? Would we close our airports because we could not pay our controllers? Would we shut down our train stations because we could not pay the switchmen? Would we stop all medical research because we couldn't fund the work?

If we don't cut discretionary spending we have only one other option: entitlements. Do we cut Social Security? If so, how much? The American Association of Retired Persons says cuts could be as high as $1,100 a year. Some in this body tell us we can balance the budget without touching Social Security. If so, what about Medicare? Would the deductible go up? Would the premiums go up? Is that what we do to America's seniors? What will we do with Medicaid? What about veterans' benefits?

What will we say to our cities when they turn to the Federal Government for help? What will we say to mothers who depend on Federal programs to feed their youngsters? What do we do to help the unemployed? How do we fund cleanup from disasters? What do we do with our Nation's infrastructure?

And the most important question of all, what happens if we cannot achieve a balanced budget? Does the Supreme Court decide what cuts would balance the budget? Does the Supreme Court become the lawmaking branch of government? This is certainly not what our Founding Fathers had in mind when they wrote this Constitution over 200 years ago.

No, Mr. Chairman. These questions lead us right back to one answer. What will balance the budget is not an amendment.

It is a focused, risk-taking leader who will propose cuts that could be made, suggest tax measures that could be tolerated, and lead America off this budgetary rollercoaster.

Congress has listened to a leader before. Congress will listen again.

I urge my colleagues to oppose the amendment for balancing the budget.

Mr. MOODY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Chairman, you know if we were all on trial for stealing, and if all of the evidence was brought forward, there is no question that we would be found guilty. And whom would we be found guilty of stealing from? Our children and their future.

When I was a boy about 10 years old we lived in a home in Houston, TX, my two brothers and I, where we had no running water, no electricity, no utilities at all. The only food and clothes that we had were what churches would give to us.

I then went and grew up at a place called Carl Fawley's Boys Ranch. At that time in my life I had nothing. But today I stand before you as a Member of the U.S. Congress. And the reason I am here today is because of the sacrifices and the commitments of past generations. They gave me a country that was full of opportunities, an opportunity where I could dream any dream and make that dream come true.

But what is my generation giving the next generation? Not an opportunity but an obligation, an obligation to pay for nearly $4 trillion in debt that we have created. When my son reaches my age, nearly 60 percent of his paycheck, his wages that he earns, he will have to pay for taxes.

I have heard the excuse that this amendment is not enforceable. Well we all stood here in the Chamber and we raised our hands and we took an oath of office that we will uphold the Constitution. And I believe that if we do have a balanced budget amendment to our Constitution that we will uphold it.

Let us not forget what our job is. We are Representatives. We are hired by our constituents to be their voice. Listen to their voice. Listen to what they are telling you. They are waiting for a change. They are tired of deficit spending. They are ready for us to make a difference, and we now have that opportunity to make that difference.

It is time that we do put our priorities in order. I agree with my friend from Texas who just spoke. I am willing to vote for those tough choices, to make those cuts even if it hurts my State. But let us seize this moment. Let us take advantage of this opportunity, not because it is what is the right thing to do, but it is because it is what we must do.

Yes, today we can steal from our children, we can take away from them that obligation and give back to them that opportunity to live in a country where they can dream any dream and make their dream come true.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, the alternative budget of the Congressional Black Caucus which was voted on earlier this year clearly showed us how to honestly and responsibly move toward a balanced budget. We showed how in the next 8 years, between now and the year 2000, $1 trillion could be saved, and half of that could be used to go toward the deficit while the other half could be used to rebuild America.

Those who are sponsoring the constitutional amendment to balance the budget are completing a plot, a conspiracy against the American taxpayers. They are completing the process. First, we had 10 years under Ronald Reagan, then the present administration where we swindled the American people by pumping unnecessary dollars into great amounts of defense spending that was not necessary so the people who profited from that, the 1 percent of the wealthiest of Americans now have that money and they can walk away with it. Then we pumped more than $200 billion into the savings and loans and $25 billion into trying to clean up the commercial bank problem. They have the money and they are running away with it now.

Now we are going to tell the American taxpayers we will not rebuild America—you pay for the bridges, you pay to rebuild the schools, you pay for national health care, you do it all on the local sales tax and property taxes, and we are going to balance the budget now. We got ours. We have got it and gone, and now you have to pay the piper.

Mr. Chairman, I rise in adamant opposition to House Joint Resolution 290, the balanced budget amendment, and all of the balanced budget constitutional amendments we will be voting on today and tomorrow. I believe that this bill is, at best, misguided, and at worst a most deceitful attempt to gut our budget of all that is helpful to the majority of the people of our country. This amendment is also an election year time bomb offered up to the American voters as the solution to all of our problems.

There are several constitutional and separation of powers reasons why we should not support these bills to amend the Constitution to require a balanced budget. Other Members of Congress will be exploring these issues fully. I am most concerned with the lack of necessity for a constitutional amendment to achieve a balanced budget and the impact such an amendment would have if imposed over a short term.

As we all know, this body has been trying to pass balanced budgets for years, if not decades. Every few years we legislate yet another attempt to force ourselves to pass a balanced budget or at least to significantly reduce the deficit. Every year the needs grow but the resources don't grow enough. And every year we think of new accounting gimmicks to use so we can dupe the public and ourselves into thinking that we have succeeded in reducing the budget deficit, but every year the new deficit numbers show that not only did we fail to reduce the deficit but it increased and we are forced to raise the debt ceiling yet again.

We cannot balance the budget because too many of us are more concerned with one or two issues in particular and not concerned with the state of this country and its people as a whole.

There are too many of us who are concerned primarily with the huge, monstrous defense industry—which has been operated as the biggest entitlement and special interest program this country has. It is even bigger than the Social Security budget.

There are too many who are concerned only with the well-being of greedy big business and guaranteeing that businesses have tax loopholes, trade advantages, no labor problems, and large profits for the shareholders.

There are too many who are concerned only with decreasing the tax and regulation burden—regardless of how it is done and what revenue is lost because of it.

There are too many who are concerned only with protecting the corrupt bankers and regulators who created the savings and loan debacle costing this country more than $500 billion.

Then there are those who are concerned primarily with the welfare of our children, our elderly, our unemployed, and all those who, whether temporarily or permanently, cannot take care of themselves and have little power with which to fight for their rights against the big, powerful, and wealthy people and businesses.

The Members of this body who fight for these people and their interests are becoming fewer and fewer. But most of these Members support the Congressional Black Caucus [CBC] alternative budgets each year. These budgets are always kinder and gentler. They support the majority of the people of this country—the people who really need Government support. The CBC budgets make significant, practical cuts in the largest entitlement program we have at $295 billion—the defense industry—while still providing adequately for our national security. The CBC budgets have also had the lowest budget deficit projections of any other budget proposals during the 1980's and, if passed, would lead to balanced budgets.

We all want to see a balanced budget. And we all wish—perhaps more than almost anything else—that there was an easy way to accomplish that goal. But there isn't. Those that say there are easy ways to balance the budget are only lying to the American public. It is the kinder and gentler answer—easy to give in an election year with no intention of following through. And let us not forget that this is an election year. The people want easy, painless answers, and their politicians at every level of Government want to supply them—regardless of the consequences.

Given the political climate that exists right now and given the experience of the CBC and its supporters who have not been able to get any of the CBC alternative budgets passed; and given the fact that very often the full interests of children, education, mothers, the poor, the unemployed, the homeless, the elderly, and especially the low-income elderly have often been ignored when it comes to budget and appropriations matters; given this dismal history many of us are quite fearful that if a balanced budget amendment is passed and is forced to take effect in the near future these are the very people who will get hurt the most.

We know that the budget axe will seek out the poor, the innocent, and the powerless. Government services which have already been cut to the bone will be completely eviscerated. The people that supply these Government services will lose their jobs. The companies that make money from these Government services through contracts will be decimated and people will lose their jobs.

The people who rely on these Government services to eat, to learn, to live, to receive health care, to have heat and water, and electricity, to get back on their feet after being down on their luck, to survive will be left out in the cold. The world will be meaner and harsher for them and they will no longer survive. Those who were learning and looking for work will not learn and they will not be able to find jobs. Those who were working and lost their jobs due to the fallout from the cuts in Government services will no longer be consumers—this will hurt businesses. The effects will be multidimensional and disastrous and I think most people have not even begun to imagine the horrible possibilities.

The best way to achieve the goal of balancing our budget is to take the long-term view—something this Congress has rarely been able to do with great success. We need to make the tough choices and cut the things that are extras and look to the future for wise investments. Wise investments are investments in people. We need to invest first and foremost in our children. What is most important for our children are their health and their education. They must be healthy in order to learn and work efficiently and productively and they must be well educated in order to grow up to create the new industries that will keep our economy growing in the long term. And we must guarantee these possibilities for all of our children—not just the middle- and upper-income children. The potential for talent knows no income barrier—but the destruction of that potential is most prevalent among the poor.

We must also devote resources to job training for those who did not have adequate education and are wasting their job potential. Job training will enable them to become productive members of our society and contribute to the consumer base and tax base. We need to decrease the size of our grossly oversized military and invest in the soldiers coming home to ensure that they do not fall into the chasm of long-term unemployment. We need to invest in the redeployment of our former military communities here at home to preserve their economic base and ensure that former military boomtowns do not become postmilitary ghost towns.

We need to invest in our infrastructure to ensure that the physical plant of our country does not fall into further disrepair. It is much less expensive to repair and improve than it is to tear down and rebuild.

There are so many things that we can do to invest in our country and our people to ensure that as we reduce the size of our budget and replace expensive short-term spending—such as prisons, emergency health care, and unemployment benefits—with cost-effective long-term spending—such as education and job training—that we are truly building a comprehensively strong economy that will see our children and our grandchildren securely through the next century without the social chaos that would surely occur if we were to suddenly disinvest hundreds of billions of dollars in this country.

I truly believe that the social chaos and economic destruction would be such that the vast majority of the people in this country would be hurt in ways from which they would never recover. You cannot just withdraw financial support from an economy and have it survive. And we cannot promise a quick political fix to this highly complex economic, policy, and program-based problem.

I encourage my colleagues to put aside political motivations and truly look at the state of our society and examine whether or not this quick fix actually has the chance to work. I am convinced that it will only increase our problems.

I plead with my colleagues to resist the panic that this extraordinarily highly charged election year is causing in the breasts of so many elected officials on every level of government throughout this country. For this is a very serious issue and these are very serious times and we must force ourselves to allow rationality to prevail. To usher in the new world order we must not hesitate to utilize our country's wealth to invest in our people.

Vote down these constitutional amendments. Keep reasonable decisionmaking alive. Keep national hope alive.

Mr. KYL. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, Thomas Jefferson, the author of our Declaration of Independence wrote in 1816:

> I, however, place economy among the first and most important of virtues, and public debt as the greatest of the dangers to be feared.

Well, our public debt has skyrocketed to nearly $4 trillion and our annual deficit is expected to reach $400 billion this year alone. Is this a danger to be feared? Of course it is, particularly for our children and grandchildren because they're the ones that will have to pay for the irresponsibility of our current Federal Government.

It's unfortunate that we need a balanced budget amendment to the Constitution. It is unfortunate that Congress hasn't had the political will to prioritize spending, to cut the hundreds of unnecessary and wasteful programs, and streamline Government to address just what American needs, not necessarily what it desires.

Frankly, my colleagues, I see no alternative to the balanced budget amendment. Gramm-Rudman-Hollings didn't work. The 1990 budget agreement hurt more then it helped and the interest we pay on our debt has increased from 8.5 percent in 1980 to 21.6 percent in 1991.

Consider this—in 1991, the Federal budget was $1.300 trillion. In addition, the Government spent nearly $300 billion in off-budget expenditures. Such figures tend to lose their significance to most of us, so let me illustrate.

At this rate of spending, the Federal Government spends $4.6 billion a day. Broken down further, that's $195 million an hour, or $3.25 million every minute, day and night.

In 1960 the average taxpayer worked 36 days to pay all of his or her taxes. But last year the average taxpayer had to work 121 days.

I would like to draw my colleagues' attention to these facts. For a two-earner family making almost $55,000 a year, 40 percent of all their income will go toward State, local, and Federal taxes.

We must be extremely careful before imposing any additional taxes on American families. Clearly our problem isn't that the American family is taxed too little, it is that the Federal Government spends too much.

Many of my colleagues who are opposed to this amendment say we are just putting off the tough decisions—

that the budget can be balanced without a constitutional amendment.

That's the same thing they said 2 years ago when a similar amendment was struck down by a narrow margin. How many billions have we added to the debt since then? How much more interest are we going to make our children and grandchildren pay?

Some say the balanced budget amendment won't work—but no one claims the current attempt to limit Government is working.

Some opponents of this amendment have stooped so low as to mislead older Americans. This is a shame because a balanced Federal budget can be achieved without balancing it on the backs of older Americans.

Requiring a balanced Federal budget simply means that Congress can only spend as much money as it takes in. That's not a radical concept—that's common sense. It's the same budget rule and guideline used by American businesses and familes and it should be the same budget rule and guideline used by this Government.

The balanced budget amendment will force this body to make the budget priorities American businesses and families make everyday. It will finally force Congress to cut or eliminate what is wasteful, unnecessary, or only desirable, and adequately fund only what is absolutely necessary.

We can no longer afford the status quo. We have let the Federal Government get too big and spend far too much. This is not fair to our economy and it's not fair to our children. The balanced budget amendment is our only opportunity for change.

Let me close by reading you one last quote by Thomas Jefferson,

> . . . And to preserve their independence, we must not let our rulers load us with perpetual debt.

He wrote in 1816,

> We must make our election between economy and liberty, or profusion and servitude.

That is our choice today my friends.

□ 2020

Mr. SMITH of Oregon. Mr. Chairman, I yield 3 minutes to our esteemed colleague, the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Chairman, I rise today in support of the balanced budget amendment.

To the ordinary person balancing his checkbook and meeting everyday expenses, this is an exercise that should not be necessary.

Indeed, the fact that we are considering this amendment today represents failure. It represents failure of our internal budget process and failure of the House rules as well as the failure of this body to abide by its own laws.

We know that in recent years we have enacted laws to preclude further deficit spending. In fact, we approved a law for a balanced budget in 1978, enacted the Gramm-Rudman-Hollings Budget Act in 1986 and the budget summit agreement of 1990. The result has been even higher deficits.

The plain fact is, mere statutes don't work. Congress either waives the provisions of its balanced budget laws—or stretches out the timetable for compliance. The deficits continue to grow and grow.

Even more disappointing to me is the fact that the Social Security Program has become a political football in the debate over the balanced budget amendment. Opponents of the balanced budget amendment argue that it would cause massive budget cuts and wreak havoc on Social Security beneficiaries. But there is nothing in the amendment that requires any cuts in Social Security. In fact, the amendment does not even mention Social Security, Medicare, or any other Federal program. It is not—nor should it be—program specific.

It is unconscionable that opponents are literally scaring older Americans with claims that this amendment will require Social Security cuts. Older Americans are not being told that changes in any entitlement program must—as now—be subject to specific legislation addressing eligibility requirements, and that the amendment is not likely to go into effect, if at all, during this century.

I commit to my colleagues now that I will not support cuts or the implementation of arbitrary spending caps on Social Security. Since coming to Congress, I have made every attempt to protect our seniors, and I introduced legislation, the concept of which is now law, to protect the integrity of the Social Security trust funds.

Yes, a constitutional amendment is a momentous step. We don't change the Constitution often. Yes, it is regrettable that it has come to this; that Congress can't control spending on its own, that some larger element—the founding document of our Nation—is needed to break the cycle of our Federal spending appetite.

Americans want Congress to reform itself and its budget process. The amendment before us will not cure all of our deficit ills, but it does concentrate relief on the source of the problem—the congressional budgeting process and the seemingly endless stream of appropriation bills.

However, the amendment does not relieve Congress of the responsibility to make sensible investments in our country's future and to address real human needs. Hard decisions will still be necessary. We must still foster congressional accountability for the budget process. We should make no mistake today to think that the balanced budget amendment alone will accomplish this.

The balanced budget amendment is merely the first step in moving towards the elimination of our massive budget deficit. It is not a complete solution or an action which will remove congressional responsibility for spending decisions—but it is an effort which can help lead us down the path of fiscal sanity.

It is often said that a journey of a thousand miles begins with the first step. A journey to remove trillions of dollars of debt from the backs of the American people similarly requires an initial act and an initial commitment to head in the direction of balanced expenditures and receipts.

Without this first act, we cannot hope to arrive at our ultimate goal. We should approve the balanced budget amendment and initiate the process of ratification. We should take this first small, but substantial step.

Mr. OBEY. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, imagine a giant broom and a carpet the size of the Capitol. Now take $1.2 trillion, lift the carpet and keep sweeping until the end of the decade. By passing the balanced budget amendment, that is Congress' latest bit of housekeeping.

First, it will take years for 38 States to ratify the amendment. In fact, no one here knows whether the States will ratify it at all.

At the absolute earliest, under the most optimistic scenario for amendment supporters, cuts and savings will begin in 1998—three congressional elections away.

Second, not one of the supporters of the amendments has put forth a plan to balance the budget. No plan means no action.

Even if we pass this amendment and the States go to work tomorrow to rectify it, Congress will continue to spend lavishly and uncontrollably for another 5 years.

Example No. 1: Last week, many amendment supporters would not even cut Defense—the most bloated and obsolete agency in the Government—by a slim 10 percent. We had a chance to save $25 billion last week, and supporters of the balanced budget amendment took a walk.

Example No. 2: Member after Member has said that Social Security, under no circumstances can be touched. Impossible.

Next year, Social Security will be the largest expenditure of the Federal Government—about $300 billion, or 20 percent of our total outlays. To say we will balance the budget without some change in Social Security is bologna.

Example No. 3: Interest on the national debt is roughly $215 billion. Add defense and Social Security and that means that $800 billion, or 55 percent of this year's spending, is on terms that this Congress cannot or will not cut.

Proponents of the amendment owe it to the American people to put some

plan, some blueprint for cuts and savings up for debate. Instead, we are telling citizens to trust us to, at some future point in time, by hook or crook, using some accounting budget gadgets, without touching Social Security, balance the Federal budget.

That is ludicrous.

I've combed through Congressional Budget Office reports and other budget documents. I am convinced that we can balance the budget by fiscal year 1996 without disrupting the economy, raising taxes, or putting the burden of cuts on America's most vulnerable families.

Instead of waiting until the 105 Congress—Instead of waiting and hoping for 38 States to ratify our pass-the-buck amendment, let's begin to show some fiscal responsibility and start cutting.

Do we really need a balanced budget amendment as an excuse to eliminate the Selective Service and save $150 million over 5 years? Do we have to wait until 1998 to kill TV Marti, Voice of America and all overseas broadcasting to save $2.5 billion over the same period?

Let us start today to sell off our pork-ridden stockpile of strategic and critical materials like tin, asbestos, and 16 million karats of rubies and sapphires, saving $6.2 billion.

If we truly want to balance the budget, let's say a belated goodbye to the space station and the advanced solid rocket motor to save $40 billion over the next 10 years.

Let's eliminate the $1.9 billion postal subsidy for nonprofit organizations.

In 1954, the Department of Defense declared wool and mohair strategic items in short supply. Now that the mohair crisis is over, isn't it time to eliminate the $570 million subsidy?

We can save $2.6 billion by limiting eligibility to the school lunch subsidy to families of four earnings less than $47,000.

No, we should not exempt Social Security from cuts; $14.1 billion dollars can be raised by delaying COLA's and increasing the taxable portion of benefits for single seniors with over $60,000 in income and couples over $78,000.

In taxpayer subsidies $7.9 billion can be eliminated by reducing the cap on the mortgage interest tax deduction from $1 million to $400,000. How a country with nearly $4 trillion in debt can get away with granting $200,000 housing subsidies to millionaires is beyond me.

We should not allow businesses to deduct 80 percent of the cost of a luxury skybox at Fenway Park from their taxes. By reducing the business entertainment tax break to 50 percent, we can raise $15.5 billion.

Our defense policy has changed from one based on national security to one based on preserving defense jobs. We must make deep cuts in defense, and we should have begun last week with the Defense authorization.

Finally, we should act immediately to grant the President limited line-item veto authority.

The balanced budget amendment will not save a single dime on this year's budget, or next year's, or the year after, or the year after, or the year after, or the year after.

We can balance the budget. We do not need an amendment; we need a plan.

Let fiscal responsibility begin today. Not with a pass-the-buck amendment to the Constitution, but with a pledge to reduce spending in earnest.

□ 2030

Mr. KYL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I thought this might be a good time, since there will be so little time tomorrow, to discuss the first amendment that we will have.

Mr. Chairman, the first amendment we will vote on tomorrow—the balanced budget-spending limitation amendment—has been cosponsored by the gentleman from Virginia, GEORGE ALLEN.

Briefly, the Kyl-Allen amendment does three things: it requires a balanced Federal budget; it limits Federal spending to 19 percent of gross national product [GNP]; and it provides the President with line-item veto authority in order to enforce the foregoing requirements.

The amendment allows the balanced budget and spending limitation requirements to be waived by a three-fifths vote of each House for a given year and for a specified excess of outlays over receipts or over 19 percent of GNP.

Kyl-Allen is based upon two fundamental premises.

First, the Federal Government must begin to live within its means.

Second, how the Government lives within its means is as important as the mere fact that it does live within its means. When the American people say they want a balanced budget, they mean less Government spending, not an increase in their already heavy tax burden.

Kyl-Allen protects against tax increases by limiting spending to 19 percent of GNP, the average level of revenue the Government has been collecting for the last 25 years.

By tying Federal spending to GNP, the Kyl-Allen amendment also gives Congress the incentive to enact progrowth economic policies. The more the economy grows, the more Congress can spend.

The need for a Federal spending limit is evidenced in two reports, one released by the General Accounting Office [GAO] just last week. The GAO projected that, based on current trends, Federal spending could grow to 42.4 percent of GNP by the year 2020, from about 25 percent today, with a real per capita GNP in the year 2020 unchanged from the current level of $24,000 a year. In other words, if Federal spending isn't limited, there will be no improvement in the standard of living for the next generation.

A report released last year by Stephen Moore of the Institute for Policy Innovation came to similar conclusions about the proportion of GNP the Government will command if current trends are followed. The report concluded that "meaningful, constitutional limits on the growth of Federal spending are needed to bring the size of Government down to economically sustainable levels. One way to achieve this end would be to limit the percentage of GNP which the Government can command from the private economy."

This is precisely what the Kyl-Allen amendment will do.

Mr. Chairman, the idea of a Federal spending limit is not new. In 1979, Congress amended the Humphrey-Hawkins Full Employment Act to set a specific goal of limiting Federal outlays to a maximum of 20 percent of GNP. The 20 percent of GNP goal has been official congressional policy since 1979. But, of course, Congress has never met the goal.

Even President Jimmy Carter recognized the need to limit spending, writing in his message on the proposal budget for fiscal year 1980 that a fundamental goal of his policy was to decrease budget outlays as a share of the Nation's GNP to 20.3 percent by 1982. He never succeeded in meeting the outlay goal. We all know that he missed the Humphrey-Hawkins goals on unemployment and inflation as well.

The point is, a Federal spending limit has already been determined by Congress to be sound economic policy. Congress has never amended or repealed the 20-percent goal which was established in law in 1979.

Like so many other attempts to constrain spending and balance the budget, however, Congress has simply ignored the goal, and that is why a constitutional spending limit is needed.

Mr. Chairman, in recent weeks, a plethora of special interest groups have lobbied hard against a balanced budget amendment to the Constitution. Most fear a balanced budget amendment will threaten their piece of the Federal budget pie.

I ask these groups in particular to take a second look at the Kyl-Allen amendment. Unlike the other alternatives which the House will be considering, the Kyl-Allen approach combines the goals of fiscal responsibility and economic growth.

Kyl-Allen seeks to create a bigger pie, a bigger economy and, therefore, more Federal revenues to go around. Instead of constantly trying to divide limited resources among an ever increasing number of groups within our society, Kyl-Allen will force Congress to focus on initiatives to stimulate

economic growth. The result will be not only a healthier economy—more jobs and better wages—but more money for Congress to devote to the programs it determines are important.

According to Dr. James M. Buchanan, the 1986 Nobel laureate in economic sciences:

Reducing government as a share of GNP from its current level of 25 percent to, say, 20 percent would generate roughly a two percent increase in the rate of growth in GNP. And back-of-the-envelope arithmetic suggests that by the early 2000s, and forever beyond, the real value of the programs financed by government would be larger than they would be under the regime that keeps government's share at 25 percent.

Mr. Chairman, Kyl-Allen will ensure a balanced budget.

It will promote economic growth.

It will impose discipline by giving the President a line-item veto.

I urge my colleagues to support the Kyl-Allen amendment.

Mr. MOODY. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, some say a balanced budget amendment is unnecessary because the President and the Congress already have the power to balance the budget. I agree, but let us look at the record. Over the past 12 years Presidents Reagan and Bush have never submitted a balanced budget. The closest Reagan ever came was a $62 billion deficit and this year President Bush submitted a budget with a $392 billion deficit.

Over the past 12 years, Congress has spent about what Reagan and Bush have requested. We may have spent on different priorities, but we have not spent more. Unfortunately, we have not used our tax and spending powers to spend less than proposed by Bush or Reagan.

The Constitution grants veto power to the President. Reagan used this power 43 times. Only nine of his vetoes were overridden and only one of those involved a spending dispute. In that instance, Reagan wanted to spend $1 billion more than Congress.

Bush has successfully vetoed 28 bills, but not one of Bush's vetoes have been based on a spending dispute with Congress.

I could go on with further examples, but clearly the President and the Congress have not effectively used their existing authorities to control deficit spending. These powers have not worked because they are optional. Presidents are not required to submit balanced budgets. Congress is not obligated to enact balanced budgets, and Presidents Reagan and Bush have not used the veto to control spending.

A balanced budget amendment would require Presidents to submit balanced budgets and would declare that no borrowing could occur without a 60 percent vote of Congress. Requiring a supermajority vote will make it more difficult to borrow and spend in the future.

Two hundred years ago Thomas Jefferson recognized the inherent danger of a public that would demand an ever-expanding role for Government. He understood all too well the inclination of elected leaders to say "yes" time and again to these demands. He lamented that it could simply add one more amendment to the Constitution, it would be an article to restrict the Government from borrowing.

□ 2040

We are proposing today to finally adopt such an amendment. With this amendment, the Constitution will say "no" to spending and to deficits when elected leaders fail to do so. But passage of this amendment is only the beginning of what must be done by this Congress. After passage we will need to debate and pass an enforcement plan and a deficit reduction package. Domestic discretionary spending, the military, entitlements, foreign aid, and taxes will have to be placed on the table.

It is our responsibility to actually make this amendment work. The real test is not the balanced budget amendment vote but instead the votes we must cast to make the cuts necessary to save our children from the burden of our debt.

Again, I agree with those who say the Constitution already grants the President and the Congress the authority to keep the budget balanced. But I have become convinced that a balanced budget amendment is necessary to remind us to use those authorities in the manner intended by our Founding Fathers in the interests of generations yet to come.

Mr. KYL. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in strong support of the addition of a balanced budget amendment to our Constitution.

As has been mentioned many times in this debate, our national debt is approximately $4 trillion. This debt is like a chain hanging around the neck of our country. This Nation could be booming today if we did not have such a staggering, almost unbelievable, national debt. Even worse, we are adding to it at the rate of $1 billion a day every day of the year, Saturdays, Sundays, and holidays included.

Most economists tell us that we are going to face very severe economic problems and possibly even crash if we do not get Federal spending under control.

A little over a month ago, Senator WARREN RUDMAN, one of the most respected Members of the other body, said in a live interview on the national news that our Nation is headed for economic disaster. We have got to get the ship of state turned around, and one way to start is by passing a balanced budget amendment.

All over this world we are seeing nations which have collapsed or are collapsing economically because of too much government, too much bureaucracy, too much deficit spending.

In other nations we have seen people starving in the streets or standing in line 8 or 9 hours for a pound of sausage, even where they have great natural resources, because governments get out of control.

We need to do everything possible to make sure that these things do not happen here.

The Federal Government is presently taking in $1.2 trillion a year. We will take in even more in the future. We can operate a strong, active, vibrant Federal Government on what we are taking in already.

Most people do not believe it is a radical idea for the Federal Government to have to live within its means and spend no more than it takes in. If we really want to protect Social Security and other popular programs in the future, we must make sure that the Federal Government is fiscally sound. We need to pass their amendment and we need to do it now.

Mr. Chairman, I am proud to be a cosponsor and endorse what I think is the best version of this amendment, the Kyl-Allen balanced budget amendment.

Mr. SMITH of Oregon. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa [Mr. NUSSLE]

Mr. NUSSLE. I thank the gentleman for yielding this time to me.

Mr. Chairman, I would like to make three points for this debate, and the last one, I hope, is the strongest one.

First, the reason I am supporting the balanced budget amendment is because I believe in the principle that you cannot spend more than you take in. The Constitution is the beautiful and most proper depository for principles that we believe in in this democracy.

I think for this democracy to succeed in the future, that principle has to be part of that plan.

Second, the point I want to make is that the balanced budget amendment in and of itself will not get the job done. It is only a first step. It is a first step on a very long journey, but we have to take that first step.

The third is something that I heard the gentleman from Kentucky [Mr. MAZZOLI], mention, I think it was yesterday or the day before. I was hoping to engage the gentleman while he was still on the floor. It is a frustration that I have had as a new Member of Congress that I guess I would like to discuss.

For me, I have had more interesting conversations, debates, discussions, planning meetings at church councils and at chambers of commerce that I

have belonged to, and even at high schools with kids, than I have had here in Congress, where we have had the change to really discuss issues.

My frustration is, and I heard the gentleman say it, and I have been saying it in speeches for quite a while: Let us lock the doors, let us bring everybody in here and let us talk. I mean seriously, let us talk. What are the priorities for this country? What are our goals? What do we want to do in the future?

We do not do that. I have never had that discussion with the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. NUSSLE. I am glad to yield to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, I say to my friend from Iowa that is exactly what this gentleman from Kentucky attempted to say yesterday and also in my special order last evening. I really think what we should do is not go through this rigamarole, because we all know in our heart of hearts that it is not a balanced budget amendment that is going to balance the budget or to reduce the deficit. What will do it is what I said, a good enforcement package and the intestinal fortitude or, as we say in Kentucky, the guts to get the job done. And in order to do that, I suggested that we ought to clear the decks for 2 or 3 weeks in the Committee on Rules, under the openest of open rules, put on the floor the entirety of the Tax Code and the entirety of the spending, all three categories of spending, and let the Congress, every Member, every man and woman Member of Congress, bring forth his or her ideas and let us have a full-fledged, free-wheeling debate on national priorities.

I suggested to the gentleman from Iowa I do not fear that sort of thing. There may be some among us who fear that openness. I do not fear it at all, and I do not believe the gentleman from Iowa does.

Mr. NUSSLE. I do not. No, I do not. My whole point is, I guess, any strategic plan I have ever been involved with, you need to start with what are your goals. The American people that I have talked to, to my Iowans whom I serve, they ask me, "What are your goals out there? What are you trying to achieve?" And we say, "Well, we are for education, we are for health care, we want to balance the budget," but we do not tell them what we want to do, what are our priorities. What do we really want to accomplish?

But, No. 2, how are we going to accomplish those things? Then, No. 3, then bring the Budget Committee in and say this is how much it is going to cost to get the job done. But that is the kind of debate we need.

I would suggest, and I do not know how we get it done, because obviously I am just a freshman, not in the leadership, I do not know who to talk to, but I sincerely believe we need to set aside that time, lock the doors, only allow for bathroom breaks, at best, and get everybody in here and let us start talking.

Mr. MAZZOLI. I agree with the gentleman.

Mr. SMITH of Oregon. Mr. Chairman, I ask unanimous consent that the gentleman from Texas [Mr. BARTON] be allowed to dispense the remainder of the time that I control.

The CHAIRMAN pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. KYL. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, this country is in crisis.

We have all known it for years—but the congressional spending train just chugs along oblivious to all the warning signs.

The economy is in recession. The promised upswing has not been strong. The reason is simple—debt.

We have debt to the left of us—debt to the right of us—we are riding into the valley of depression—while the cries of innocence from this floor and the White House thunder in the country's ears.

The problem is simple—it is caused by spending more than is earned—and I use this term loosely—by way of taxes.

There are only two answers—cut spending, or increase revenues.

Congress can't cut spending. For years, I have advocated an across-the-board freeze on all spending, from DOD to DOC, which would have balanced the budget by now. But nobody wanted to even hear it.

There are only two ways to increase revenues—raise taxes or put people to work. Raising taxes is counterproductive. The more we tax business, the more we encourage business to move overseas.

The gentleman from Ohio [Mr. TRAFICANT] was correct: We must stop exporting jobs. The North American Free-Trade Agreement will encourage United States industries to move to Mexico where there are lower taxes, no minimum wage laws, and few environmental regulations.

And what do we do when unemployment hits 10 percent or 12 percent or more?

This amendment is not a perfect solution, but it will force the Congress and the White House to prioritize. Social Security, Medicare, and defense are priorities. We will protect them.

But there are other programs that are not priorities—no longer will we be forced to protect tax breaks for mink farms nor encourage studies of the sex life of fish in Nicaragua.

Studies, studies, studies, we spend billions on studies. But no one seems to study the bottom line—a $400 billion deficit this year, and more next year. And, the interest is killing us.

And, let us use the real interest figure. It is more than $240 or $250 billion a year. True interest should include all moneys that are due on debt instruments of the United States—including trust funds. When this is done, the figure approaches $350 billion per year, this year and climbing.

The only way to save our children, save Social Security and retirement pay, and save our future is to pass a balanced budget amendment, and force Congress and the White House to face the priorities of the Nation.

□ 2050

Mr. MOODY. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Chairman, I want to reinforce my support for House Joint Resolution 290, the Stenholm balanced budget amendment.

My colleagues, right after the Depression I was born and raised on a two-horse farm, and I remember that my mother had us for a great number of years praying that our father would be able to pay off a small debt on the farm and thereby save it. It never occurred to me that we were not supposed to pay our debts, that we could roll them over year after year.

Now several Members opposing the balanced budget amendment have spoken out against it. Their arguments, for the most part, have been ones of supposition;

"What if it doesn't work?"

"What if the States won't ratify it?"

"It will take too long."

"What will our constituents think if we, as individuals, don't have the backbone to balance the budget without a constitutional amendment?"

"It won't work anyway."

"It's a hoax. It's a cruel hoax."

"What if entitlements, such as Social Security, Medicare, student loans, et cetera, are affected?"

"It will reduce defense spending."

What if's, suppose this, and just on and on.

Now let us present some evidence why we must pass this amendment:

The inaction and inability of this constitutional body, which is empowered with power only through a consensus, has not had a budget success in over 30 years. Just look at the past history. Just look at this chart here:

A debt of $3.8 trillion, an interest bill of $26 million an hour, and more according to the gentlewoman from Maryland [Mrs. BENTLEY]. Want to get real serious with it? About $2,350,000 a minute, up 125 percent since 1982, just 10 years ago when the interest on the debt was only $10 million an hour.

Mr. Chairman, I want to tell my colleagues that I have not contributed to

this debt with my votes. I have voted on every effort, put every stumbling block possible in the way of the growth of this debt, but, my colleagues, it takes 218 of us, 290 of us in the case of a balanced budget.

Now look at the 1993 budget: $1.5 trillion, with Treasury income of only 1.15 trillion, $350 billion short and adding to our debt, and I will say to my colleagues that about $200 billion of that $350 billion is interest on the debt.

Now it has been stated that we have tried diligently to put some stumbling blocks in the way of this runaway spending, laws such as Gramm-Rudman I, Gramm-Rudman II, the 1990 Budget Act and other previous attempts. Unfortunately many of these plans have failed. I ask my colleagues, "Why do you think they failed." and I think they failed because they have been attacked by the same well-meaning critics who are now working against this amendment.

(Statements from Senator Proxmire and Governor Lamm follow:

STATEMENT OF SENATOR WILLIAM PROXMIRE SUBMITTED TO THE HOUSE BUDGET COMMITTEE ON THE BALANCED BUDGET AMENDMENT MAY 13, 1992

Mr. Chairman, I am pleased to submit a statement to the Budget Committee on the Balanced Budget Amendment. It is far and away the most important fiscal reform the Congress could undertake.

That we need a balanced budget amendment should be clear, and I will not dwell too long on this point. Our national debt is now nearly $4 trillion, and this fiscal year's budget deficit is likely to approach $400 billion. In the fiscal years 1991, 1992, and 1993 alone, we will see a trillion dollars in new debt. We have gone through Gramm-Rudman-Hollings, the 1990 budget summit agreement, and countless statutory balanced budget mandates. It hasn't worked.

Instead, the federal government now borrows over a billion dollars per day. We have not seen a balanced budget since 1969, even with a tremendous increase in taxes. The federal government has clearly demonstrated that it cannot control itself, and needs the control of a Balanced Budget Amendment to bring needed fiscal discipline.

Many politicians fear the consequences, in terms of radical spending cuts and program elimination, of a Balanced Budget Amendment. Let me just say that Congress right now has a rare, golden opportunity to balance the budget, amendment or not. In fact, I believe that the most urgent economic need for our country today is to reduce our massive annual deficits, and balance the federal budget in five years. It can be done without raising taxes.

First, we should take full advantage of the collapse of the Warsaw Pact. In view of the strength of our NATO allies, we should be able to safely put the Department of Defense on a path of cutting our defense budget in half, that is by $150 billion by 1995. With the breakup of the USSR, the threat to US security from that source has ended. It is now possible for the US to make huge cuts in military spending—the figures are mind-boggling. Even before the breakup the United States and its allies had established a dramatic superiority over the Soviet Union by virtue of both the conventional and strategic arms treaties negotiated in recent years.

Now the collapse of the constituent economies of the former USSR deprives Eastern Europe of the economic basis for a super military power in the future. The former Soviet Union's strongest economic and military ally—East Germany—has become unified with the former West Germany and thereby became part of the western alliance through membership in NATO. The other Eastern European allies are now beyond communist redemption. There is no practical prospect of putting this shattered humpty dumpty back together again.

So what about the future? With the profound difficulties plaguing the economies of the republics of the former Soviet Union, it is obvious that the advantage now held by America and NATO would doom any military aggression by these countries. The time has come to recognize that Congress can and should safely make substantial reductions in military spending.

In fact, it is very much in the long-term interest of our national security that we sharply reduce military spending, because our military strength ultimately depends on the strength of our economy, which continued excessive military spending can wreck as sure as it wrecked the Soviet economy.

Resistance to the future aggression of international rogue elephants like Iraq can be far better secured through the United Nations with a more equal sharing among all of the free democracies in the future and with a sharply eased burden on the United States.

All of this should permit the United States to reduce its military spending by 1996 to $150 billion in 1991 dollars as recommended by several former secretaries of defense.

Secondly, we should drastically reduce health care spending. In 1992, the American people will spend about $800 billion on health care. About $270 billion will be for private insurance, $235 billion will be paid through federal taxes, $100 billion by state and local taxes, $30 billion by private charitable contributions, and $165 billion by out-of-pocket expenditures by patients and their families.

This means that between 1965 and 1992, our country's health care costs have skyrocketed from $41.6 billion to an astounding $800 billion, an almost 20-fold increase in 27 years. No other nation comes within a country mile of this huge expenditure on any basis. It is far more than twice as big as our national defense spending. It is more than three times our entire Social Security outlay.

There is a rumbling about this immense burden, but nothing like the outrage we should expect. This is because this huge cost increase has been disguised so artfully. The biggest single component of health care is concealed in the insurance our employer usually pays for us as part of our wages and salaries. Here is a payment of a colossal $270 billion, mostly unseen, slipped in large part out of our pockets in a deduction from our monthly pay in health premiums.

That's only the beginning. We will also pay a huge $235 billion this year in federal taxes also withheld from our paychecks for Medicare, Medicaid and other health care costs. Not one taxpayer in ten realizes it, but taxpayers will pay another $100 billion in additional state and local property, sales, and income taxes. That's not for local schools or for police protection or sanitation. It's for health care costs.

There's more. The good samaritans among us will—bless their hearts—donate an additional $30 billion in private charitable contributions to hospitals, hospices, clinics and other health providers. So far, all of the immense spending for health care that I have specified has not reached the consciousness of most of us. It's invisible. Now consider health care costs we do recognize. Directly out of our pockets, we will pay about $165 billion this year in doctor, hospital and other medical costs. To many of us, just this payment we personally make is the cost of health care. That's an illusion. The total cost taken from us by health care is almost five times as great.

None of the other economically thriving countries in the world suffer anything like this immense burden. Whereas America leaves 15% of our people without a nickel's worth of health care insurance, other developed countries generally cover all of their people. Here is a classic example of wasted spending. Think of it. We spend 50% more than Canada or Germany for each person for health care and 100% more than Japan. And yet each of these countries covers all of its people with health insurance. Furthermore, such indicators of the efficacy of the health care system as infant mortality and the rate of improvement in longevity show America lagging behind each of these countries.

The ultimate irony is that virtually all of the improvement in American health in the past 30 years has come from a steadily growing change in lifestyle. This change costs nothing. It has actually saved billions. Many Americans eat less. Tens of millions have given up smoking. Drug and alcohol addiction is down. Americans are now spending less on tobacco, booze, drugs and food.

By saving money with a disciplined lifestyle, an increasing number of Americans have improved their health. Meanwhile, the far greater sums we spend on our inferior health care system do less to advance our health and have become the number one drag on our economy.

How do we cut this monstrous and pathetically ineffective health care spending? The New York Times and Fortune magazine call the answer "managed competition". They're right. We have to manage health care so that those who pay for it—the insurers and the government—can negotiate on a real power basis with the clinics and hospitals that provide medical services. I do not need to go into the specifics of this concept for this hearing, but suffice to say that we could save between $100 billion and $200 billion per year within five years, while simultaneously increasing life span, and decreasing infant mortality.

There are countless other areas of spending that could be cut to balance the budget. We could internationalize our major scientific programs. For example, the United States should not pay 80 to 90% of the costs of the $80 billion space station. We should limit our contribution to 25%. Additionally, the General Accounting Office charges that the government is losing up to $50 billion per year because it doesn't know its cost of operations, and therefore grossly undercharges for credit and insurance. The federal government is the only major enterprise—public or private—in the country that requires no independent audit of its operations. There are several other areas of federal spending that could be cut, and I would be happy to provide further ideas to the committee at any time.

Are there alternatives to the Balanced Budget Amendment? I think not. Although some would like to continue to hike up taxes, it would not bode well for long term economic health. I do not think there is enough tax revenue out there to fund the federal beast. Furthermore, Americans are now paying a higher proportion of their in-

come in taxes than at any other time. Let me elaborate.

In 1929, total taxes at all levels of government absorbed about 13% of American income. By 1933, the tax burden on much lower national personal income had risen to 23%. Six years later, Americans were paying 21% of their income in taxes to finance the struggle against the depression. Then our country entered the all-out fight for freedom in World War II. Personal income rose sharply, but taxes to finance the colossal expenditures of that war rose to 27% of a higher income in 1942 and crested at 31% in 1944 and 1945. By 1945, with the war over, the total tax burden had fallen to 27% of personal income.

Was that 31% levy the high-water mark in American taxation? Not by a long shot. By 1969, taxes at every level of American government were taking an outrageous 38%—or about one fifth—more of American income than the highest burden that had been imposed in the last years of World War II. The combination of the Vietnam War, the ongoing Cold War with the Soviet Union and the so-called war against poverty were said to account for the massive expenditures in 1969.

So here we are 20-some years later. The Vietnam War is over. The Cold War has ended. The "war on poverty" has died. And our government is still taking an all-time record 38% of our income in taxes—one fifth more of our income in taxes in relation to personal income than it was taking at the height of the most costly war in human history. It is absorbing 65% more than when the federal government was engaged in an all-out struggle against our worst depression, and nearly three times as much of American income as when we last enjoyed similar conditions of world peace and prosperity back in 1929.

The budget deal of 1990 raised taxes yet again, and still the deficit climbs, and still the spending surges. Americans are taxed enough, and should not be forced to finance the federal folly of extravagant spending and massive borrowing that already imposes a tremendous burden on future generations.

If we don't pass an amendment and balance the budget, the consequences could be dire. As interest payments continue to grow at a rapid rate, they will crowd out all other important spending programs. As I have indicated, there may not be enough taxable personal income out there to keep up with federal debt service. Faced with staggering debts, inadequate funding for nearly every discretionary program, entitlement, or mandated spending requirements of enormous proportion, the dollar is the only thing that can give. It is easy to envision rampant inflation, as the government begins to print what it needs. We must not fall into the trap of printing money, and sending inflation through the roof.

In closing, I simply want to say that Congress is in a unique and powerful position to both adopt a Balanced Budget Amendment, and, subsequently, balance the budget. I have identified only a few areas of spending cuts, there are others. Further, the leadership must come from Congress, since we are clearly not getting it from the President. President Bush has presided over record deficits, and has taken pleasure in bashing the Congress for spending and lavish perks. Against the backdrop of an all-time high $400 billion deficit, as many or more Executive Branch perks, from lavish air travel to staff gardeners and calligraphers, have been exposed as are enjoyed by Congress.

I simply implore that Congress cut through the rhetoric of difficult decisions and tough choices, and make a rather simple one: to adopt a Constitutional amendment to balance the federal budget, and then go about doing it.

STATEMENT OF GOV. RICHARD D. LAMM SUBMITTED TO THE HOUSE BUDGET COMMITTEE ON THE BALANCED BUDGET AMENDMENT MAY 13, 1992

Mr. Chairman, I thank you for the opportunity to present my views on a Constitutional balanced budget amendment generally, and on House Joint Resolution 290 in particular. I can think of no more important fiscal reform the Congress could undertake.

For years we have all listened to endless streams of rhetoric from both sides of the aisle in Congress, and from the Administration, on the need to curb the deficit, and the best way to arrive at a balanced federal budget. Meanwhile, we continue to see an explosion in both deficits and debt by the federal government.

For years I was strongly against amending the Constitution to require a balanced federal budget. But after careful study of the issue, I am now as strongly convinced that a balanced budget amendment is the most effective way we can control the alarming cycle of deficits and debt. Mr. Chairman, if you and your colleagues agree that the deficits and debt must be brought under control, you must work to pass H.J. Res. 290, and send the states a balanced budget amendment to ratify.

WHY WE NEED A BALANCED BUDGET AMENDMENT

Mr. Chairman, we have not seen a balanced budget in 22 years. Instead, Congress and the President have gone on a borrowing and spending binge. It took 205 years, from 1776 to 1981, to reach a trillion dollars of national debt. It has since taken only ten years to reach nearly $4 trillion. In the fiscal years 1991, 1992, and 1993 alone, we will likely see a trillion dollars of new debt.

Many people are inclined to disregard deficits, on the theory that if our economy keeps growing, we will simply grow our way out of them. The economy grew throughout the eighties, yet deficits simply continued to grow.

The rapidly rising debt contributes to or aggravates a weakened economy. First, as the national debt increases, interest payments also increase. In fact, interest payments are one of the fastest growing expenditures in the budget, and may shortly be the largest single budget item. As interest payments skyrocket, they crowd out spending on important federal priorities, and eliminate room for new priorities in the budget. The important role of the federal government in our society is restricted by ever growing interest payments on our national debt.

Simultaneously, private and foreign capital finances the debt rather than being invested in areas that will ensure long-term economic growth. This puts a clamp on our productivity, and therefore on our long-term ability to produce enough to keep up with our debts. I think our standard of living is already experiencing a decline due in part to our massive debt.

Ultimately, we may very possibly lose our economic self-determination. There may very likely be a point at which we can no longer borrow and must repay. Worse, we may not be the ones to make that decision—our creditors may make it for us.

Members of Congress and the President have a moral obligation ourselves to reverse our national trend of borrowing. By borrowing, we are committing future generations paying for our current expenditures. Although they will not receive the benefits of those expenditures, they will be obligated to pay for them. How much? Interest on today's debt, the accumulation of all past budget deficits, will cost today's child $90,000 in extra taxes, on average, over his or her lifetime. By contrast, today's adult will pay less than half that amount.

And children will pay in more than just taxes. They will suffer higher interest rates, more expensive housing, fewer jobs, lower wages, decaying infrastructure, meager retirement incomes, and little or no government help. If they are lucky, our creditors will not have assumed total control of our economy.

Had the Framers been able to conceive of politics in the twentieth century they undoubtedly would have included a balanced budget amendment in the Constitution. At the time, however, a balanced budget provision seemed unnecessary. According to Thomas Jefferson, elected officials "should consider ourselves unauthorized to saddle prosperity with our debts, and morally bound to pay them ourselves." In other words, the government had a moral commitment to balance its books.

Unfortunately, modern special interest politics has streamrolled any moral commitment against deficit spending, and has rendered recent Congress and Presidents incapable of acting in the broader, national interest on fiscal matters. When Congress considers a specific spending cut which would help balance the budget, that fiscal restraint is in the broad interest of all Americans. But the direct benefit each American receives from any individual spending cut is minimal. Conversely, the direct beneficiaries and administrators of any spending program have a tremendous amount at stake in the outcome of a debate over funding of their program.

While all Americans who stand to gain if the program is cut stand idly by, the beneficiaries of the program mount focused, intense lobbying campaigns, often involving political donations. Ultimately the limited special interests win, the deficit mounts, and spending remains unfettered. The result is a budget that has been consistently unbalanced for 22 straight years.

Contrary to rhetoric, Congress and the President cannot, or will not, balance the budget on their own. They are faced with tremendous pressures against cutting spending, and rarely rewarded for decreasing the budget. This means that the 22 year legacy will only continue. How much longer, Mr. Chairman, will it be until debt service reaches 60% of the budget? How long will it be until entitlements suck every dollar of tax revenues and still demand more? How long will it be until the United States can no longer attain the credit it has been lavishing on itself, until we can literally borrow no more?

HOUSE JOINT RESOLUTION 290

Our current fiscal crisis is severe, and in need of immediate attention. The single farthest reaching step Congress can take is to propose and send to the states to ratify, a Constitutional amendment requiring a balance federal budget. HJRes 290, sponsored by Representative Stenholm, and 277 of his colleagues, is the proposal Congress must pass.

HJRes 290 would require that prior to adopting its annual budget, the Congress and the President must adopt a joint resolution specifying the amount of estimated revenues for the next year. Based on that resolution, Congress would adopt and enforce a budget in which outlays would be limited to projected revenue.

There are several escape mechanisms build into HJRes 290, in order to provide flexibility and to allow Congress to address unforeseen demands on the budget. For example, the entire provision would be waived in the event of a declared war. Additionally, Congress could authorize a specific amount of deficit spending with a 60% vote. Moreover, the amendment does not stipulate how the budget must be balanced. With a Constitutional majority, 50% plus one vote, Congress could vote to raise taxes if that were action it deemed appropriate.

Mr. Chairman, it is probably impossible to craft a balanced budget amendment that would please all critics throughout the ideological range. I am sure that my perfect amendment would differ. Accordingly, it is easy to identify minor criticisms of HJRes 290.

Criticisms notwithstanding, HJRes 290 will impose fiscal discipline and accountability on the institution of Congress. If Congress wants to raise taxes to balance the budget, then each member must vote to do so. If Congress feels that a certain level of deficit spending is necessary, then it must go on record to deficit spend. The public has become disenchanted with Congress for several reasons, a primary one of which is the lack of accountability members assume for the state of national affairs. Beyond establishing a direct, Constitutional relationship between federal receipts and expenditures, a Balanced Budget Amendment will place accountability upon individual members of Congress on all fiscal matters.

WHY CONGRESS SHOULD ACT NOW

Not only have I been converted to supporting the Balanced Budget Amendment, I am a strong advocate of getting it done now through either of the two means. The first, of course, is through the Congress adopting such an amendment and sending it to the states for ratification. The second, is through the Article V convention call.

As you know, 32 states have called for a Constitutional convention on the Balanced Budget Amendment. That is just two shy of the necessary 34. Frankly, that should be a strong enough signal. It would be political suicide for Congress to allow a Constitutional convention to draft a Balanced Budget Amendment. Constitutional convention delegates would be elected from every congressional district in the country, and many of them would certainly run for Congress after completing work on the Balanced Budget Amendment that Congress refused to pass. I know of several state legislators who reached office because of their work at a state Constitutional convention. The same thing would happen in Congress.

Further, a Constitutional convention would mark the ultimate failure of Congress to respond to the people it represents. Is our government for the people, or for elected officials and special interests? The polling data clearly supports the concept of a Balanced Budget Amendment. The people want it, and Congress is standing in the way.

Fears of "runaway conventions" are unfounded. The process is multi-step, and anything a Constitutional convention adopts still must be ratified by the legislatures of 38 states. Even in the bizarre and unlikely event that a Constitutional convention adopted a radical rewrite of the Constitution, the states would simply not ratify it.

In short, Mr. Chairman, the time is ripe both economically and politically for Congress to adopt HJRes 290, and send the states a Balanced Budget Amendment to ratify. Not only would this mark a serious, honest, sincere attempt by Congress to deal with the harmful deficit and debt, but it would also set us off on a course of long-term economic strength and growth. It is unfortunate that we have fallen to this level before seriously considering the real solution. It is my hope that Congress will not let the situation deteriorate further.

Mr. KYL. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, if there was ever an example of the need for a balanced budget amendment, it was the House-Senate conference last week on the so-called dire emergency supplemental appropriations bill. That entire conference, that entire conference, was engaged in a dispute as to how to get around the present budget ceiling caps on spending—the entire conference.

As my colleagues know, the President asked for emergency money because of the situation in Los Angeles. That money comes over and above the budget caps in the present budget agreement. But that entire conference was spent seeing how we could add to that money for other programs that the President had not asked for and how much we could force the President to accept in order to get what he wanted. The entire conference was devoted to that, my colleagues, and what was a $600 million request by the President over and above the budget caps became a $1.4 billion bill that I hope and trust the President will veto, as he should veto.

But, my colleagues, it is an example of the fact that this body, this Congress, we use any ruse, and we use any subterfuge. It will change the law. It will do anything it can to get new money for spending, to get new spending programs, and there is not at all anything to wonder about. That is what we are in the business of doing, enacting new programs, enacting new regulations, enacting new spending.

Mr. Chairman, the only way to limit the insatiable appetite, the insatiable appetite of this body for additional spending and new programs, is to amend the Constitution of the United States to prohibit that.

Mr. Chairman, I do not take amending the Constitution of the United States lightly. It is indeed a sacred document to all of us, to each and every one of us. But the only way that we are going to limit that insatiable appetite for more spending is to amend that Constitution so that this body cannot do what we did just last week, and that is get around our own limits, the limits that we imposed on ourselves, the limits that are imposed in law, not in the Constitution, because we will get around them every time. We will find ways to spend the money. We will use a subterfuge, we will use a ruse, and we will find some way of getting around the budget process.

Mr. Chairman, I have been here for 24 years. I have seen budget processes come and go, and, every time we found a way to get around them, and the only way that we will provide something that cannot be subject to a subterfuge, is to amend the Constitution of the United States with a balanced budget amendment. I hope my colleagues will support it.

Mr. BARTON of Texas. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, revolution—revolution?

Is there any wonder why we have a peoples revolution in America?

Taxes and debt.

Spend and regulate.

Deceit and political corruption.

When will Congress get the message?

Will it be when 150 new Members have been sworn in?

Will it be when both parties are scorned as problems—not the solution?

Will it be when an independent candidate for President is higher in the polls that either party's candidate?

Folks, even with all the signs, with all the signals, with all the pleading from the American people, the U.S. Congress has not yet gotten the message from the American people.

The message was to balance the budget; the people told us to get your house in order. The voters have pleaded that we are in economic gridlock, that we are in regulatory gridlock.

Yet Congress in its arrogant and politically corrupt way goes on and on.

Let me emphasize recent actions.

National Institutes of Health—$3.1 billion over the President's request.

Brand new and extended unemployment benefits bill—$3.6 billion.

Reward for lawlessness, burning, and looting—$500 million to the cities.

The $172 million for National Undersea Research Program—that was brandnew and unwanted.

The $8 billion is only part of 4 weeks of expanded and new programs.

I ask, where is the discipline?

The American taxpayer would be better off if we would shut this place down and go home. Maybe the budget would balance itself.

Then, to add insult to injury, the leadership plays on the fears of older Americans and veterans. The spending addicts threaten taxpayers with tax increases. They threaten Americans with tales of horror.

I believe that behind all their threats and all their cacophony is an insecurity that they cannot be reelected if they cannot buy their way in.

The American Revolution II.

I want to be there.

Any Member who votes against the balanced budget amendment deserves defeat.

This Congress has not exhibited discipline and now the American public has demanded it with a constitutional balanced budget amendment.

We must pass a balanced budget amendment or the revolution will only worsen.

□ 2100

Mr. MOODY. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. HUBBARD].

Mr. KYL. Mr. Chairman, I yield 30 seconds to the gentleman from Kentucky.

The CHAIRMAN pro tempore (Mr. MFUME). The gentleman from Kentucky [Mr. HUBBARD] is recognized for 2½ minutes.

Mr. HUBBARD. Mr. Chairman, there are many reasons why we should pass a balanced budget amendment to the Constitution.

First, we begin the process of pulling this country out of potential economic chaos. Our Nation simply cannot continue to endure record deficits and an everdeepening national debt.

This year our Federal Government will spend about $3 for every $2 it takes in.

Surely, we are aware that we in Congress do not have the political courage to pass a balanced budget through legislation. We haven't done that during the 18 years I've been in the House of Representatives.

If this constitutional amendment takes effect by 1997 it will, of course, require approval by two-thirds majorities in the House and Senate and ratification by 38 States.

Even now we are telling the American people we can balance the budget with spending cuts alone. The truth is that balancing the budget will require both tax increases and spending cuts.

The public clearly is fed up with business as usual in Washington.

Our gross Federal debt is at $4 trillion and rising.

Some who oppose a constitutional amendment today opposed the Gramm-Rudman approach to deficit reduction several years ago. Obviously, the 1985 Gramm-Rudman law didn't work to actually lower Federal spending.

The constitutional amendment approach is necessary, workable, and right.

Our current laws, our budget process, our authorization and appropriations bills simply do not require us to spend only the Federal dollars we take in as revenue.

We need a constitutional amendment to enforce the fiscal discipline which we now lack.

Mr. KYL. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I rise today in support of the balanced budget amendment, and I request permission to revise and extend my remarks.

Mr. Chairman, I must admit to a certain amount of reluctance to amending the Constitution. As a teacher, I taught a generation of students about this sacred document, and I tried to endow them with a degree of reverence for it. I taught them that it provides checks and balances against tyranny, that it ensures democracy, and that it protects their civil liberties. I taught them that the Constitution is the one guarantee of a fair and representative government. And yet, it is for these very students that this amendment is so necessary, for that very same document has not protected their future from the spending excesses of our generation.

We all know that one of the main reasons for the Revolutionary War was taxation without representation; our Founding Fathers were careful to ensure that this would never happen again. And yet, future generations are being saddled with taxes over which they have no control through the actions of this Congress. That the Constitution takes no steps to prevent this is a shortcoming in that document. Perhaps the Framers lacked the foresight, or the cynicism, to envision a day when Congress would allocate Federal money as political capital, and thus create debts which triple our revenues.

Many will argue, and argue correctly, that this amendment does not balance the budget; it simply makes it more difficult to spend in deficit. They say that only politically courageous decisions will balance the budget. This is true, in much the same way that deciding to go on a diet does not make one lose weight; it is only the first step toward losing weight. Today we can take only the first step; it does not end here. But if we cannot even take this first step, there may not be any hope.

I have heard criticism that this amendment is not serious, that it passes off the difficult task of balancing the budget to future leaders. They say we need to make the difficult decisions today to balance the budget. And yet most of these critics are among those who wanted to bring down the firewalls and spend the peace dividend. Most of these critics have continually supported unfunded unemployment benefits. Most of these men and women oppose amendments to cut appropriation bills. Where is the courage in that?

We have already passed on a $4 trillion debt to our children and grandchildren. As they struggle to meet the interest payments on this debt, they will not care whether it was the President's fault or Congress'; whether it was the Democrats or the Republicans; whether it was social spending or defense. They will only wonder why we never took the steps necessary to see that it did not happen. They will wonder why this Constitution that they were taught to revere did not protect them from this. They will wonder how we could do this to them.

Mr. Chairman, after I leave Congress, I hope to return to teaching. And when I tell my students about their Government and its workings, I do not want to have to say that I would not vote for an amendment designed to ensure that Congress could not spend their inheritance. I do not want to tell them that the Constitution does not protect them from the profligacy of a Government they did not elect. I want to tell them that I was a part of the Congress which finally took the first step to protect them.

Mr. BARTON of Texas. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Chairman, I have to tell my colleagues, it is way past time, and I ought to stop there. It is way past the time. But it is way past the time for a balanced budget amendment.

I tell my colleagues, this spending is like a horse running wild on an unfenced prairie. Once and for all, Congress finally has a chance to lasso this bugger. It is a fact. In the last 30 years, Congress has balanced the Federal budget one time. But it has managed to raise taxes 56 times. That is downright ridiculous.

Those of you who oppose this amendment, and especially those who are trying to derail this effort. Open your eyes and ears. The American people are fed up. They are demanding change.

Americans don't want, don't need, and don't deserve big Government debt. Congress is to blame for this mess and Congress is the one to fix it. We are almost $4 trillion in debt.

This year alone we will pay over $300 billion in interest. Do you know what this is? It is a stop watch. Click, Click. One second. 10,000 taxpayer dollars down the drain on interest alone.

This body has the power to balance the budget on its own. But in the world of partisan politics and special interest groups, Congress refuses to even try. An amendment to our U.S. Constitution is one law that Congress cannot ignore.

Take a look at the people speaking against this amendment. They are the big spenders. To me it is obvious. They are afraid an amendment like this would actually work.

Instead of mending their ways and using a little fiscal restraint. They are more interested in frightening the elderly, and threatening our veterans by using scare tactics that are untrue.

A straight forward, balanced budget amendment does not threaten social security, Medicare, or any other vital Federal programs.

Plain and simple—this amendment outlaws deficit spending. That means we'll have to cut the pork and make the hard decisions we should have been making all along.

Let me ask, which would we do, would we fund a $40 million rock-and-

roll museum or do we support Social Security and Medicare? That is an easy decision to make, not difficult.

Balancing the Federal budget is an opportunity this Congress cannot afford to miss. The future of our children and this country is in our hands with this amendment. Watch this stop watch. Do not let the second tick away. After tomorrow, we may not get another chance.

Mr. KYL. Mr. Chairman, I yield 8 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Chairman, I have listened to a lot of the debate today, and I have heard a lot of Members come up who oppose the balanced budget amendment and blame these high deficits on big tax decreases back in the early 1980's and record defense spending during the 1980's, that is why we have the deficits we have today.

Well, I might agree with them in the early 1980's, that may have been the reason we had the deficits in the early 1980's. I do not agree that that is the reason we have deficits today.

As everyone knows, we have increased taxes three or four, maybe five times since 1981-82. We have been cutting defense steadily since 1985. In fact, if we look at what we spend on defense, it is at one of the all-time lows as a percentage of the budget.

If we look at what we pay in taxes in this country, they say these big tax cuts. We pay as much as taxpayers, on the Federal level, today as we did back in 1980 and 1981 before the tax cuts went into effect.

The fact of the matter is, though, what is driving it, and this has been gone over and over again, is entitlements, and interest on the debt and all these things that we just do not have the political will to make tough decisions.

I hear everyone coming up on the other side who is against this balanced budget amendment saying, this is an irrevelant exercise. We need to stand down here. We need to discuss the issues of the day. We need to make the tough cuts.

Let me tell my colleagues about those Members who come down here, because we have a little information on these Members that come down here. We have something called the Congressional Budget Tracking System.

The gentleman from Texas [Mr. STENHOLM] has been very active in this, as have I, in trying to find out what the motivating force is behind all these Members introducing, raising spending here on the floor of the House.

We found that one of the things was that Members introduce a lot of bills that increase spending. In fact, they introduce a heck of a lot more bills to increase spending than they do to decrease spending. And what we found, and we looked at the 278 Members who signed the balanced budget petition, we found out that on average they have sponsored bills in this session of Congress to increase the deficit by $27 billion. That is a little hypocritical.

But let us look at the Members who did not sign. Let us look at the Members who oppose. Let us look at the Members who come here and say, "Well, if we just discussed the issues of the day and if we just had the political will, if we weren't pandering to people back home, then we could solve this deficit problem."

Those Members sponsored bills on average to increase the deficit $128 billion per person, individual Member of Congress, $100 billion more of cosponsorship of bills to spend money than those who want to balance the budget.

Where is the sincerity here? Who are the Members who really just do not want to control spending, who would rather be able to say, "I am doing this for you, folks back home, reelect me."

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, can the gentleman name the one committee chairman in the House who has received 3 letters in a row in 3 separate fiscal years from the Reagan White House and the Bush White House threatening to veto his appropriation bill because it did not spend enough money?

Mr. SANTORUM. Mr. Chairman, I commend the gentleman for his actions in trying to reduce spending. I would just say that unfortunately, as an opponent to the balanced budget, the gentleman is not in very good company when it comes to Members who want to reduce spending.

Mr. OBEY. Mr. Chairman, if the gentleman will continue to yield, I am very comfortable with the company I am in.

Mr. SANTORUM. Mr. Chairman, I am telling the gentleman that the numbers do not lie. If we look at the bills that are sponsored by Members who are not signing on, and did not sign on, to the balanced budget amendment, those Members sponsored bills that spent $100 billion more on average than Members who did sponsor.

Mr. OBEY. Mr. Chairman, if the gentleman will continue to yield, can the gentleman tell me who is the last President to ask the Congress to pass a balanced budget?

Mr. SANTORUM. Does the gentleman mean who was the last President to submit a balanced budget?

Mr. OBEY. Mr. Chairman, yes.

Mr. SANTORUM. I do not know that answer. I know it was not Reagan or Bush.

Mr. OBEY. Mr. Chairman, would the gentleman be surprised if I told him that after submitting a budget which was slightly out of balance, that Mr. Carter resubmitted his budget with the purpose of hitting a zero deficit?

Mr. SANTORUM. Mr. Chairman, I applaud then-President Carter for doing the right thing. I stand here in saying that I am not pointing the blame solely at the Congress. I freely admit that the folks up on Pennsylvania Avenue have something to blame.

Mr. OBEY. Mr. Chairman, if the gentleman will continue to yield, would the gentleman tell me what is the maximum amount by which any Congress has ever changed any President's budget since Harry Truman's administration?

□ 2120

Mr. SANTORUM. Again, I would say to the gentleman from Wisconsin [Mr. OBEY] he dazzles me. I will defer to him and trust his figures.

Mr. OBEY. It is 3 percent. So I think the gentleman is perfectly correct to suggest that the Congress has been derelict in its duty in dealing with budget deficits, but I think we need to put it in perspective and point out that it is not a failure of the Congress, it is a failure of the Congress and the President, and I think until we have both branches accepting responsibility that it will not get fixed.

Mr. SANTORUM. If I can stipulate that, and use the rest of my time, I would be happy to do so.

Mr. MOODY. Mr. Chairman, will the gentleman yield for a moment?

Mr. SANTORUM. Yes, I yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Chairman, I have a different question. When the gentleman from Pennsylvania talked about the people who were not supporting the balanced budget amendment and implied they were hypocritical, I believe it is against the rules of the House to impugn the motives of Members of the body.

Mr. SANTORUM. OK.

The CHAIRMAN pro tempore (Mr. MFUME). The gentleman from Wisconsin [Mr. MOODY] is correct.

Mr. SANTORUM. I thank the chairman.

Let me just say that those who come here to the well and suggest they are willing to discuss, and they tick off 10 or 12 defense programs that they do not support anyway that they would like to get rid of, I really do question—in deference to the gentleman from Wisconsin [Mr. MOODY]—I really do question whether they really want to get at the bottom of the issue here, which is to reduce the deficit, when they are out there sponsoring hundreds of billions of dollars of increased spending.

So I would suggest that we get down to the basic issue, which is, let us pass this amendment, let us go back and then have these discussions, on which I commend the chairman of the Committee on the Budget. I think he is absolutely right, we have very tough decisions to make. I am willing to make those.

I offered a budget in committee that reduced the deficit by $35 billion this year, and did not get very many votes for it. I offered specific amendment after specific amendment, and I did not get very many votes for it. The fact is, it is very difficult to say we are going to have very serious discussions, when every time we have a serious discussion we are shot down. We are here today because we have a balanced budget amendment on the floor, and we are not going to have serious discussions until it is passed.

Mr. MOODY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, the speaker who just spoke pointed out something that concerns me very greatly. That is that we are stagnating our Government if we cannot introduce or we cannot work for new legislation in the Congress of the United States of America, when there are great problems out there that need help; we are in a real bad fix.

If I were the President of the United States or running for President today, my first agenda would be a program to get jobs for people in the inner city, to give them some hope, get off of relief, and earn their money. That would be my first job.

Where would I get the money? I would knock out all foreign aid. That is $25 or $30 billion a year. I would knock out arts and humanities. That is another $16 billion, and food stamps. These are all painful things, all good programs. There are other programs I could list for the Members that I think we could get rid of. We already have a social welfare program to take care of those who are on food stamps. It is a very much abused program.

So that is a problem that I think we ought to face, the fact that we are presently at such a gridlock that we cannot do anything that the country really greatly needs. Some people said this amendment cannot be enforced. It will be enforced. It will be enforced by the Supreme Court saying, "When you go over the amount of money you are supposed to spend in that year, you cannot spend any more," and it will be a void contract. That will get everybody's attention.

Another thing that will get people's attention is the fact the Government says, "You cannot pass legislation," to bolster up this amendment once it is passed, to give it teeth. In other words, we could give it teeth and Members of Congress will be responsible to do it.

The third thing, and probably the most important thing I can say to the Members as a politician who has been politicking for a long time in my life, I think it is very difficult to come here to Congress and not have obligations to spend money that special interests ask you to do. If we have a constitutional amendment like this, we are going to be able to tell them, "I cannot do it unless I get rid of some money." So we would say, "My heart bleeds for you, but I have to find someplace to get that money, because I cannot do it under the Constitution."

So I think we have an opportunity in this time to go forward, and I hope we will, for a constitutional amendment to balance the budget.

Mr. KYL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, while the gentleman from Florida is resuming his seat, I would like to compliment the gentleman. We served on the Committee on Armed Services together, and I know when he speaks he speaks from the heart, and he speaks from a great deal of experience. I think that the words that he just gave us have a lot of wisdom behind them, and I would like to associate myself with those very wise words of my friend from Florida.

Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I was elected to serve in this distinguished body in our bicentennial year. It is an election that I will not forget, and the moment in this Chamber, holding the hand of the youngest of my children, of Sally's and our five children, standing right about there behind that leadership desk, we kind of pushed the rules on children on the floor, she was a young 15, and I will never forget that day. It was a dream that I had had since I was a young lieutenant in the Air Force, to come here and serve in this distinguished body.

I had slept in a car with three fellow cadets out in the parking lot in August 1954, between propeller and jet training, and I told them, "I am going to serve in that body if it is the last thing I do."

When I got here, I had no idea that with a break in service, where I changed districts, and I think I am the only one here that has served from two completely different districts. It has been over half a century since anybody has been that lucky. I have seen a lot of good men and women try to come here and miss once, twice, three, and in one case four times, and not make it here.

I truly love the history of this Chamber, and appreciate being part of every Congress that won from the 95th Congress to this 102d Congress, but I had no idea that some day I might have to explain to my grandkids that during my service we just drowned in red ink here.

There is plenty of blame to go around. I know that with six cameras, Mr. Chairman, that under strict rules shoot this Chamber in a limited way, that viewers who follow our proceedings probably cannot see the beautiful woods carved into this leadership desk area that was rebuilt in the early 1950s.

"Tolerance" is one word around the corner. This word over here behind the Democratic lectern is "Justice." We spend a lot of money here trying to ensure domestic tranquility and establish justice in this country, but we cannot seem to get a good crime bill out of here that keeps the victims in mind.

Right at the center here it says "Tolerance." We have passed some interesting civil rights legislation. I voted for all of it that I know of since I have been here, except for one or two unusual amendments, and we still cannot seem to hold down hate crimes in this country.

Behind me it says "Liberty." I have watched some ferocious, passionate debates here on how we were going to spend our money covertly and overtly to bring freedom to Afghanistan, where the winners kill one another; to try and bring some justice to Yugoslavia, spinning into six or seven separate nations where brothers are killing brothers.

We spend money arguing over how to help Nicaragua. We spend several billions of dollars in El Salvador to try and bring peace, in Angola to try and bring peace, all around the world, and there is the word "Peace" over here on this side.

Lord knows that we have spent a lot of money here trying to stop 30,000 missiles from being pointed at us, and that is to the everlasting glory of Ronald Reagan, and in trying to get "Liberty" carved in this beautiful wood here, and "Peace" over here. We would have arguments over how to fund all of this.

We won an amazing hot and bloody so-called cold war, and instead of returning a piece then to our citizenry, we find out that the peace dividend is gone, for all sorts of reasons: S&L banking scandals, some of which originated or had its roots originating in this Chamber. We see rioting and self-destruction of their own neighborhoods of citizens out of all sorts of cultural reasons, asking for billions of dollars to rebuild areas, with the threat that a hot summer will cause other cities to burn.

I will tell the Members something, I am probably, if I survive November, good for only one more term, two at the outside. I have said I will not run again after 1996. I believe in 12-year term limits, and I have 6 in one district, and that would give me 12 in this.

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I want to leave a legacy to my grandkids. Three of our five are married, and that gives us eight grandkids, God willing a few more if our two youngest get married. And the oldest is already 11, Ricky, who lives out here in Virginia. I have a granddaughter, Erin, who was born on the 200th anniversary of the establishment of the House, and the Senate, and the Supreme Court, and the Presidency. I would like for her

to be the first female President of this Nation, if not sooner. Erin Griffin. I keep telling her, "You're going to be the first lady President of our country."

What legacy are we going to leave my grandkids and the grandchildren of a lot of Members of this House?

I see that BARBARA VUCANOVICH is still here, and I have been telling her for 3 or 4 years now that we have to get together and form a grandparents caucus, not that there are not a lot of great single men and women, like Sam Rayburn who served, and that there are not a lot of great clergy people who love all of the children of this country, but who never had any children of their own.

But when I stand in this well and I talk about my future, and my future progeny not living in debt, and my grandchildren, I am talking about living flesh and blood children. So what I am going to say now, just beginning my written remarks that my staff worked so hard on and that I am proud of, is that my grandchildren are going to, I think, be told by me about tomorrow, the balanced budget day.

With all due respect to my friends and colleagues on the other side who do not think that we need this discipline written in with the amendment to our Constitution, I say after 15 years on this Hill, 13 of them in office, we definitely need this discipline. We need the 11th of June, tomorrow, to show the American people who hold us in such low esteem that we are going to put a law, a mechanism in place to make sure that this body and the other Chamber are really caring about the future children and grandchildren and their grandchildren for generations to come.

I rise of course, in strong support of a balanced budget amendment, and of all of the amendments the Kyl amendment is the best because it limits spending, the real cause of our deficit, to 19 percent of GNP, a bill that I put in this Chamber in 1977, 19 percent.

Mr. Chairman, I rise today, of course, in strong support of a balanced budget amendment to the Constitution. Of all the different proposals we will be considering today, I believe that the Kyl amendment is the best because it limits spending, the real cause of the deficit, to 19 percent of GNP. The next best is the Barton-Tauzin amendment, which also has real teeth. Barton-Tauzin would prevent the debt limit or taxes from being raised without the consent of three-fifths of both Houses of Congress. If the Kyl and Barton amendments fail to get the required two-thirds, I will support the Smith-Stenholm amendment, which would require a three-fifths majority of both Houses of Congress to increase the limit on the public debt. I will, however, oppose the Gephardt amendment, which would allow Congress to use all sorts of mischief to get around the requirements of the amendment.

I am not going to get into the minutiae of each amendment, but instead will confine my remarks to why I believe it is important that we take this step today.

Amending the Constitution is not something any of us should take lightly. Indeed, it is the most serious legislative undertaking in our system of government. However, I think that in this case a serious response is necessary to break the legislative logjam we find ourselves in with regard to the deficit. And who knows, if the amendment succeeds we may not give it a second thought in years to come. As Michael Kinsley pointed out, "Many of (the Constitution's) clauses address concerns that now seem trivial. See the third amendment, about quartering soldiers. We should only be so lucky that fiscal responsibility seems a passe issue in future years."

Critics of the amendment rightly point out that we already have the ability to take the steps required to balance the budget, but that we don't use them. They say, again correctly, that the problem is really one of a lack of political will and political courage. But political courage means different things to different people. I would argue that Republicans have the political will to cut spending to the bone. And I believe that the Democrats have the political will to raise taxes. But neither side can impose their political will without the cooperation of the other. So the question becomes: How do we break the logjam and get Congress and the White House, Republicans and Democrats, to act?

We have tried statutes in the past and they have been continually ignored or waived. I remember several years ago I wrote a newspaper column in which I detailed Congress' habitual lawbreaking when it came to the budget. The lawbreaking has continued to this day. As Mr. STENHOLM has pointed out, the Budget Act of 1974 has been waived over 600 times since it was enacted. So a balanced budget statute is obviously not the answer. We need to go further. We need to make a process that favors a balanced budget part of the Constitution.

People—politicians—will no doubt take a constitutional duty much more seriously than a statutory one. Further, by making it a constitutional requirement, the budget will receive more media scrutiny and the public will become more attentive and more involved. And if a balanced budget amendment does nothing but lead to a serious, honest, national debate on spending and taxes—a debate I know our side will win—then it will have been worth it. In short, a constitutional amendment ups the political ante.

But perhaps the best reason to support the amendment is not because of what it will force the Congress to do, but because of what it will force the American people to do. To wit, Americans would have to confront the real cause of the budget deficit—divided government. More than taxes or spending or monetary policy or defense or anything else, divided government has been the primary cause of our deficit. Why? Because with divided government there is no accountability. The Democrats blame the Republicans for the deficit, while Republicans blame the Democrats. The result is gridlock.

As our terrific Minority Leader BOB MICHEL recently pointed out, the American people have had it both ways for far too long, electing Republican Presidents who hold the line on taxes while electing a Democrat Congress that spends money as if there is no tomorrow. Whereas Republicans want to decrease spending and the size of government, the Democrats want to increase taxes to maintain or expand the current size of government. This fundamental difference in approaches to balancing the budget goes to the very heart of the philosophical divide between the two parties. Americans will have to start answering some very tough questions, such as: What is the legitimate role of government? How big should government be? How much of the Nation's output should be channelled through Washington? What are our priorities?

With a constitutional amendment, something will finally have to give. Either both sides will have to reach some compromise, or one party or the other will eventually control both ends of Pennsylvania Avenue. My preference is for the latter, provided, of course, that it is Republicans who are in control. But in any event, Americans need to get more involved in their Government if we are going to tackle this problem.

I would also like to briefly discuss the erroneous notion that passing a balanced budget amendment would result in a raid on Social Security and Medicare. this is nothing but a scare tactic used by opponents of the amendment to defeat it. Social Security would be no more vulnerable under a constitutional amendment than it is now. The amendment would only prescribe a procedure, it would not prescribe a specific outcome. that will be the job of Congress and the President.

Let me end by pointing out that the amendment would conform to a basic historical proposition—no taxation without representation. In this case that means the current generation has no right to saddle future generations—the unrepresented—with a mounting pile of debt—taxation. No less than Thomas Jefferson made precisely this same point in recommending such a constitutional procedure over 200 years ago. If it was good enough for 'ol Tom, it is good enough for me. And it should be good enough for all of us, for all Americans.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. COX].

Mr. COX of Illinois. Mr. Chairman, when I arrived here in Washington I had high hopes that I would be able to be part of a process that would bring fiscal responsibility to the Federal Government of the United States without the use of a constitutional amendment. Having been here now for approximately 18 months, I find that those hopes are gone and that it is clear to me that without a constitutional amendment we will never balance the Federal budget, we will never confront the difficult choices which we must if fiscal responsibility will become a reality, we will never do the things we need to do to assure an optimistic and hopeful future for our children and our grandchildren.

It is my desire, Mr. Chairman, that the constitutional amendment that we pass assure that we will balance the budget. It is my desire, Mr. Chairman,

that the constitutional amendment that we pass will not require a supermajority to make the important decisions that we must make in this regard. It is my desire, Mr. Chairman, that if we fail to bring the budget into balance in any fiscal year that we look back and be required to take action in the following year to make up for actual excess spending that may have occurred.

I have listened closely to many of my friends who oppose a constitutional amendment. It is my observation that many of the arguments that are put forth against the amendment are really admissions that, if we must be fiscally responsible, we will not support many of the programs my friends desire to become part of the law or remain in the law as they are today. This is an admission of failure of policy ideas as it appears to me that my friends believe that if we must be fiscally responsible we will not support spending programs they support. I am sympathetic and quite often supportive of the programs my friends would like to add to the law of this country or keep in the law as they exist today. I am not prepared to bankrupt the future of this country and that of my children and my grandchildren to support their ideas without the requirement that we make the difficult choices and pay for the programs that we attempt to implement.

The gentleman from Utah, Mr. ORTON, and I have diligently worked on an alternative constitutional amendment which assures that balanced budgets will be required, which mandates a look back year after year after year to be sure that we balance the budget, which identifies what will happen if we fail to balance the budget in any given year. I believe that that amendment will not reach the floor as part of this debate. If we fail to pass a constitutional amendment during this process, I am hopeful that we will take another look at the Orton-Cox balanced budget constitutional amendment at another time. However, because the amendment Mr. ORTON and I propose will not have the opportunity to be considered, I have no choice but to support whatever constitutional amendment requiring a balanced budget has an opportunity to pass. It is my humble observation that without passage of this amendment soon, as Senator RUDMAN said at his retirement press conference, we may not be able to fix the problem in time.

I urge my colleagues to support the Stenholm amendment as the one amendment having the real opportunity to become law. I wish we could eliminate some of the flaws of the Stenholm amendment but that does not appear to be possible. The alternative to the Stenholm amendment, no balanced budget constitutional amendment, is far more dangerous to the future of this country than any of the flaws I perceive in its language. Therefore, I urge my colleagues to vote for H.R. 290.

BALANCED BUDGET AMENDMENT SUPPORTERS SPONSOR LESS SPENDING THAN OTHER MEMBERS OF CONGRESS

Based on the April 5 release of the Congressional Budget Tracking System, members of both chambers who have sponsored the Balanced Amendment to the Constitution sponsor far fewer spending increase proposals than those who have not sponsored the measure.

The 278 Balanced Budget Amendment House sponsors have, on average, sponsored legislation that would increase spending $27.8 billion. In contrast, members who have not sponsored BBA have sponsored legislation costing an average of $128.2 billion.

In the Senate, the 29 members who have sponsored the Balanced Budget Amendment have sponsored legislation that would increase spending by $18.5 billion. Other Senators have sponsored legislation that would increase spending $30.4 billion.

The Congressional Budget Tracking System (CBTS) is a comprehensive computerized data base summarizing cost estimates of legislation proposing significant changes in current Federal spending policies. CBTS cross-indexes these estimates with the sponsorship and cosponsorship records of each member of Congress to provide a running tally of the cost of every major spending initiative that each member has sponsored or cosponsored. CBTS contains an offset feature to ensure that the same spending is not counted twice when it appears in more than one bill. This permits the system to show only the net spending proposed by each member.

CBTS SPRING 1992 AVERAGES

[In millions of dollars]

	House	Senate
BBA sponsors	27,803	18,568
BBA non-sponsors	128,262	30,411
Difference	100,459	11,843

STATEMENT BY JAMES M. BUCHANAN

It is time to acknowledge that the 1990 Budget Agreement has failed.

It is time to go back to constitutional control through a balanced-budget amendment. In supporting such an amendment, Congress can control its spending proclivities by setting up control machinery external to its own internal operations, machinery that will not be so easily neglected and abandoned.

Why do we need a balanced-budget amendment now, when no such constitutional provision existed for two centuries? The answer is clear. Up until recent decades, the principle that government should balance its budget in peacetime was, indeed, a part of our effective constitution, even if not formally written down. Before the Keynesian inspired shift in thinking about fiscal matters, it was universally considered immoral to spend without taxing, except in periods of emergency (wars or major depression). We have lost the moral sense of fiscal responsibility that served to make formal constitutional constraints unnecessary. We cannot legislate a change in political morality; we can put formal constitutional constraints into place.

It is important to recognize that the balanced-budget amendment imposes procedural constraints on the making of budgetary choices. It does not restrict, in any way, the power or ability of the Congress to spend or tax. The amendment requires only that the Congress and the Executive pay for what they spend by the imposition of the necessary taxes. In its simplest terms, such an amendment amounts to little more than "honesty in budgeting."

In one sense, of course, we always pay for what we spend through government, as anywhere else. But those who pay for the government spending that is financed by borrowing are taxpayers in future years, those who must pay taxes to meet the ever-mounting interest obligations that are already far too large an item in the federal budget. The immorality of the intergenerational transfer that deficit financing represents cries out for correction.

Opponents of the balanced-budget amendment argue that the interest burden should be measured in terms of percentage of national product, and, so long as this ratio does not increase, all is well. This argument is totally untenable because it ignores the effects of both inflation and real economic growth. So long as government debt is denominated in dollars, sufficiently rapid inflation can, for a short period, reduce the interest burden substantially, in terms of the ratio to product. But surely default by way of inflation is the worst of all possible ways of dealing with the fiscal crisis that the deficit regime represents.

Opponents make the additional argument that the balanced budget amendment would be unenforceable, and that Congress would make efforts to circumvent any fiscal constraints. Of course. But the existence of constraints will constrain, as indeed the Gramm-Rudman experience indicated.

Finally, opponents suggest that Congress and the Executive must maintain the budgetary flexibility to respond to emergency needs for expanding rates of spending. This prospect is fully recognized, and all versions of the balanced-budget amendment include explicit provisions that allow for waiver of the constraint upon approval of some qualified majority in both houses.

When all is said and done, there is no rational argument against the balanced-budget amendment. Simple observation of the fiscal record of recent years tells us that the procedures through which fiscal choices are made are not working. The problem is not one that involves the wrong political leaders or the wrong parties. The problem is one where those whom we elect are required to function under the wrong set of rules, the wrong procedures. It is high time to get our fiscal house in order.

We can only imagine the increase in investor and business confidence, both domestic and foreign, that enactment of a balanced-budget amendment would produce. Perhaps even more importantly, we could all regain a confidence in ourselves, as a free people under responsible constitutional government.

EXCERPTS FROM REMARKS BY GOV. L. DOUGLAS WILDER

Mr. Chairman and members of the Committee, thank you. I appreciate the opportunity to meet with you to discuss the implications of a balanced budget amendment to our Nation's Constitutional heritage and fiscal future.

Let me say at the outset, that I am in favor of a balanced budget amendment to the Constitution. I voted in my state legislature in 1977 to memorialize your taking this action. As a governor and one committed to running a fiscally responsible state, this shouldn't surprise you.

By and large, state financial managers accept the balanced budget requirement as a tenet of fiscal integrity. The National Governors' Association's support of a balanced budget amendment is consistent with states' commitment to this concept.

The underlying fiscal philosophy in Virginia is that the worst time to raise taxes is during a recession. Accordingly, when faced with a $2.2 billion deficit in 1991, we ruled out tax increases, held the line on new spending, cut discretionary spending by 25 percent below 1990 levels, eliminated over 3,000 positions through an early retirement program, and withheld salary increases from state employees for two years.

Although the challenges faced by the federal government are gargantuan in comparison, I do believe that many of the broad principles that were successful in Virginia—and in other states—can be applied in Washington.

Chairman Panetta, your invitation to me suggested seven issues of interest to the Committee, and I want to group these issues in two broad areas of testimony.

First, I will discuss the fabric of our political culture in Virginia and our constitutional and legal environment for responsible financial decisions.

Second, I will examine some of the ways in which our financial management experiences have implications for the federal government and suggest refinements in the federal approach to financial policy, including a balanced budget amendment.

BALANCED BUDGET CONSTITUTIONAL REQUIREMENT

There is a long tradition of enacting balanced budgets in Virginia, but the Constitutional requirement is of recent vintage.

The people of our Commonwealth voted in 1984 to enact this amendment, effective July 1, 1986. Our balanced budget amendment requires that the Governor ensure that expenses of the Commonwealth do not exceed total revenues on hand and projected during each budget period.

In managing the enacted budget, the Governor must ensure that actual expenses paid from the treasury do not exceed the actual revenues paid during the life of the appropriation. The Constitutional provision applies to all funds, including federal grants, which are expected to come into the state treasury.

LINE-ITEM VETO

Since 1971, Virginia's Constitution has also contained a provision granting the Governor the power to veto an item in an appropriation bill. The Supreme Court of Virginia has defined an "item" as "an indivisible sum of money dedicated to a stated purpose."

The Governor, under this power, can veto a sum of money identified for a stated purpose. He cannot reduce it to a smaller sum, but must veto the entire amount. In addition, the Governor's power to veto an item does not carry with it the power to strike our conditions or restrictions on appropriations. That is an exercise reserved for the General Assembly by our Constitution.

In contrast, and to the detriment of the process, the President is not held accountable for a balanced budget. Congress takes control over budget development with its budget resolution, after which, the President may only approve or veto 13 appropriation bills. The President has minimal flexibility to manage the federal budget after it is passed.

AMENDMENTS TO AN ENROLLED APPROPRIATION BILL

In Virginia, the Governor's constitutional power to recommend amendments to an enrolled budget bill is of far more significance than the line item veto.

The General Assembly may, by majority vote, adopt the Governor's recommended amendments; or it may refuse to adopt the amendments, in which case the enrolled bill, without amendments, is again before him for his action: either his signature or veto; or the General Assembly may enact the enrolled bill, without the amendments, into law by a two-thirds vote in each house.

In all but three years since 1982, the Governor has returned the enrolled appropriation bill to the reconvened session with amendments.

In all but one year, the General Assembly has adopted all proposed amendments.

STATUTORY AUTHORITY

Language was placed in the 1932 Appropriation Act, during the time of the Great Depression, requiring the Governor to survey the collection of revenues of the general fund and reduce appropriations so that they do not exceed those revenues.

The reduction could not exceed a certain percentage, which has changed from time to time, and is currently 15%. The approval of the General Assembly is not required; however, in those years when the Governor has found it necessary to reduce appropriations, the General Assembly leadership has been informed, and the Governor has made reports to the General Assembly of the action taken.

Although refined and amended over the years, this language is the basic authority of the Governor to reduce appropriations should a decline in revenues take place. It was the statutory authority used to put the 1990–92 budget reductions in place. Every Governor has taken this responsibility seriously and has taken action when the monthly revenue reports indicated a shortfall in general fund revenues.

However, the General Assembly recognized that there may be compelling circumstances which require an individual agency to incur a deficit. In instances such as the imposition of a new and unexpected federal requirement or a court order, the Governor can authorize a deficit provided that it is repaid either by appropriations made by the General Assembly or from the agency's appropriation the following fiscal year.

IMPLICATIONS FOR THE FEDERAL GOVERNMENT

Now I would like to address some implications of our experience in Virginia for federal financial decision-making.

Comparisons between the states and the federal government are often debated. State governments are important laboratories where innovative experiments to address social and financial issues are tried and perfected.

With a national debt of about $4 trillion, there is a need for discipline at the national level. It is appropriate that you are looking to successful budgeting practices of the states for guidance. I believe the balanced budget amendment is a statement of principle and conviction that can promote discipline. I favor a balanced budget amendment to the Constitution as part of a comprehensive financial reform strategy.

Perhaps some of the strongest arguments for the amendment come from the arguments commonly used against it.

First, opponents say that state balanced budget requirements apply only to the states' general fund dollars. This is not so in Virginia. We are required to balance our budget for all funds, including federal and other specially earmarked funds. All our funds are deposited in the treasury and appropriations are made accordingly.

Second, opponents say that states are able to balance their budgets only because they use bonded debt for public works and infrastructure, whereas the federal government uses a "pay-as-you-go" approach. This argument is a straw man.

There is nothing wrong with government, nor the private sector, making prudent use of debt to pay for capital investments that have useful lives producing future benefits for future generations.

In fact, in Virginia, we carefully assess the limits of our debt capacity to maintain our AAA bond rating, and we have a constitutional limit on the amount of debt we can issue. Moreover, we have instituted a six-year plan to direct our capital investment toward the most essential needs.

Unfortunately, the federal government has no capital budget and has no way to account for how much of its annual deficit and its debt is attributable to productive capital investments.

Therefore, it has no yardstick to measure the appropriate use of debt. Some would say that this is precisely why the federal government should have a capital planning process and a capital budget distinct from the day-to-day operating budget.

A balanced budget amendment should not be tabled just because the federal government does not have a capital budget process. There may be a need for other budget reforms along with a balanced budget requirement including a capital budget.

Third, opponents also say that a balanced budget amendment would promote more off-budget spending. Again, this argument is a Trojan Horse.

Just look at the billions spent on the Resolution Trust Corporation which is now off budget and ask yourself could we possibly be worse off if we had a balanced budget requirement?

The point is that budgetary gimmickry will always prevail if there is no fundamental commitment to the principle of a balanced budget. In this context, a balanced budget requirement is a restraint on gimmicks.

Surely it will not succeed unless we are dedicated to principles. Yet, we can be even more certain it will not be accomplished if we are unwilling to set forth the principles.

Finally, opponents say that the adjustments needed to balance the budget would be too harsh and that necessary and popular programs would have to be eliminated. Let me simply refute this argument by citing the measure we have taken to balance Virginia's budget.

FINANCIAL ENVIRONMENT

Over the past 27 months, the most extensive changes ever proposed to a budget in Virginia were needed to keep the Commonwealth's fiscal affairs in order. Far-reaching spending reductions were made necessary by the dramatic slowdown in the economy and an equally dramatic decrease in revenue collections. Continuing increases in federally mandated spending were also a part of Virginia's budget problems.

Overall, our revenue forecast for the biennium was reduced five different times—and reflected a total shortfall of $2.5 billion. This was the largest shortfall in Virginia's history, and one of the most severe in the nation. It was equivalent to about 15 percent of the total general fund budget.

It meant that we could not balance the budget without considering reductions in many important services. It could no longer be "business as usual" in Virginia. Everything needed to be on the table.

At the same time, essential services needed to be preserved. We chose to avoid simplistic across-the-board reductions to address the budget imbalance. Instead, we chose to make difficult decisions, to choose between our highest-priority programs, and to target reductions accordingly.

POLICIES AND ACTIONS

Throughout the series of budget reductions I set these major budget reduction policies:

First, Virginia would not enact any general tax increases.

Second, Virginia would protect programs that provide direct aid to individuals and other essential public services.

Third, we would protect local government to the extent possible, by phasing reductions in local programs.

Fourth, we would emphasize, permanent, on-going reductions in the state budget wherever possible and minimize reliance on one-time budget actions.

Fifth, we would target reductions rather than adopting formula driven or across-the-board reductions to ensure that the state's highest-priority programs were not adversely affected.

And sixth, we would provide maximum flexibility to agency officials to determine where budget reductions would be made.

The process I set in motion to reduce operating expenses of all state agencies by instituting greater efficiencies and further curtailing of spending called on the cabinet secretaries to work with agencies to develop proposed reductions in keeping with my reduction policy objectives.

I insisted that all programs and activities of state government, with a few exceptions, be considered for reduction.

To minimize the impact of reductions on the public, exemptions were made for essential state services such as aid to individuals (that is, Medicaid, social services, and mental health), debt service, prisons, and the state police. These exemptions reflected those required by law as well as by my policy priorities.

To ensure that essential services and the highest priority programs were preserved in Virginia's budget reduction process, I directed the Secretaries and agency heads to target reductions in areas of operations that could be made more efficient, that could be delivered in alternative ways, there were not essential to the central purpose of government, and that were not producing a sufficient return on investment.

The approach, in other words, was a "bottom up" one—with the program managers closest to the programs determining the specifics of where reductions would be targeted. This approach reflects current management philosophy being used in successful private sector streamlining efforts.

Over half (55 percent) of the actions necessary to make up the $2.5 billion revenue shortfall were achieved through reductions to state agencies' operating budgets. Agencies adopted a number of strategies to effect the necessary budget savings.

Over a third of the savings they realized were due to organizational changes, operational efficiencies, or elimination of non-essential services. These actions will mean permanent, long-term reductions in the size of Virginia's budget.

Another 27 percent of the total savings to make up the shortfall were in agency capital projects. We put a freeze on building projects that were not already under contract with the private sector.

In total, more than three-fourths of the budget savings necessary were operating and capital reductions at the agency level.

While I used my executive authority as the chief financial officer of the Commonwealth to temporarily halt spending as necessary, all the budget amendments were submitted for review and approval by the General Assembly and were given full public airing for the citizens of the Commonwealth to express their reactions.

More important, we were honest and candid with taxpayers. We acknowledged that Virginia could not afford to continue everything that was in the budget. We took the straightforward approach that it was far better to finance high-priority programs adequately than to finance everything inadequately.

If we assume there is a lesson to be learned from Virginia's successful budgeting, we must address not only the issue of a balanced budget constitutional requirement, but also other differences from the federal approach.

I am confident that states tend to be successful in managing their finances because the authorities of Governors are more closely patterned after those of chief executives in the private sector. Basically, we have more budgetary influence than the President.

As Virginia's Governor, and as most other Governors, I have substantial authority to develop and implement financial policies. This authority has a stabilizing effect on the process. For example, the line item veto, while not often used, and the authority to recommend amendments before I sign an appropriation bill, are both effective budget development tools to thwart efforts to increase spending or taxes.

As a Governor, and unlike the President, I also exercise strong budget management authority. This provides flexibility to change financial plans and is an incentive for long-range planning and forecasting.

For example, I can reduce or temporarily defer spending when revenues decline; transfer appropriations; and appropriate certain fund balances at year end. After a federal budget is approved, the President has virtually no flexibility to react to changing fiscal conditions.

I believe state budgets are responsible because state officials are clearly accountable. The are accountable because they have strong legal requirements to balance the budget and limit debt; and they have the authority to control and manage the state's finances.

There are no silver bullets or simple solutions to the federal deficit problem. I am, however, confident that there are solutions. But these solutions are possible only if all branches of government are willing to take and cede responsibility.

Such responsibility is a matter of trust for government—by demonstrating that we are spending our money wisely, we show that our initiatives are not frivolous programs, but sincere efforts to make a difference.

The National Governors' Association has adopted a policy that Congress support a constitutional amendment for a balanced budget when the federal deficit has been reduced to zero. I generally agree with this policy, but from a personal perspective, I believe we should have a policy that identifies when a budget deficit will be reduced to zero.

I am flexible as to the time frame and specifics of how this is done. It's far more important for the President and Congress to agree to the principle and stick to a process and time frame to accomplish it. To get consensus, it may be necessary to phase in deficit reduction and adopt other reforms. In the absence of action, however, I do not believe that we can restore the confidence of the American people in the federal budget process.

Other elements that need to be considered include a capital budget and restoring to the executive branch some of the authority needed to manage the nation's finances. Whether this is in the form of a line item veto, or enhanced rescission authority, or appropriation transfer authority is not important at this moment.

What is important is that such authority for the executive is distributed in a way that ensure accountability. Surely, this will improve the integrity of Federal financial management and responsiveness to the national interest.

Thank you for this opportunity to be with you today and to speak about the balanced budget amendment legislation presently pending before Congress. I would be pleased to answer any of your questions.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. (Mr. MFUME). The Chair reminds Members that they should avoid references or direct quotes of Members of the other body.

Mr. KYL. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Well America, you have heard the debate. What do you buy? What side of the argument do you buy? You have heard people expressing on both sides of the aisle now.

I can tell you that I will be supporting any amendment that gives this Congress the incentive, yes, a mandate to balance the budget. This budget deficit is the greatest threat to our national well-being that we face as a Nation. It is the greatest challenge of our time, and anybody who says that we are going to try to confront this with just business as usual, trying to just reshape the rules of the road as we have up to date is kidding themselves or they are lying to the American people.

The fact is that we need some fundamental reform, and there is no silver bullet. Let me add I agree with them, there is no silver bullet like a constitutional amendment that is going to do the job for us. But that does not mean that we do not need the constitutional amendment or need the reform.

Yes, balancing the budget is going to require us to make some very tough decisions. We are going to have to change the taxing, spending, and regulatory policies that have resulted in this great threat to our national well-being.

On the spending side we are going to have to say no to anything that is not absolutely necessary. That is what we are going to have to do once this budget amendment passes. We need to say to the farmers, I am sorry, we cannot subsidize you anymore. That is right, farmers are going to have to be treated like other businessmen, because we cannot spend billions of dollars subsidizing certain industries. We are going to have to say the Government cannot

run a railroad anymore at billions of dollars' worth of subsi dies, or provide services like public broadcasting when it is done in the private sector, or we might not even be able to have a National Endowment for the Arts. But these things are better to get rid of than to let the whole system sink and to have our entire population impoverished because we are afraid to make decisions.

We have to have the ability to make tough decisions, and we have to be tough enough to clear away things, not just say no to spending, but tough enough to make reforms like, for example, to clear away anticompetitive regulations like antitrust laws that are no longer applicable, but drag our country's competitiveness down. Our country is crying out for liability reform. Liability reform itself would help spur economic growth, and we will know after this balanced budget amendment, unless we are willing to take on the lawyers that we are not going to be able to balance the budget. And we will also have to say no to some of the nonsense like striker replacement laws which also bring down American competitiveness, because we will know that it is going to drag down the economy, and even make the budget deficit harder to solve.

We are going to have to be more creative. We are going to have to be more creative and we are going to have to come up with some positive solutions when right now that pressure is not on us. For example, a lot of things the Government does can be privatized. Why does the Post Office have to be run by the U.S. Government in this day and age? Yes, that is a decision that we might have to face. We might have to privatize that service. We might have to privatize the ownership of airports in this country because we will not be able to tax the American people, not because it is not in the balanced budget amendment, which everyone passes, and I hope it is in there, but because the higher level of taxation will have a lower level of growth, and will have a higher budget deficit if we rely on higher taxes.

□ 2140

I will vote for any amendment that helps us make those tough decisions. I am willing to make the tough decisions now, and I hope that we pass a balanced budget amendment so we can get something good done for America and America's future.

The CHAIRMAN. The Chair will advise Members controlling the debate time that the gentleman from Texas [Mr. BARTON] has 25½ minutes remaining; the gentleman from Wisconsin [Mr. OBEY] has 9½ minutes remaining; the gentleman from Texas [Mr. STENHOLM] has 33 minutes remaining; and the gentleman from Arizona [Mr. KYL] has 13 minutes remaining.

Mr. BARTON of Texas. Mr. Chairman, I yield 4½ minutes to the gentleman from California [Mr. RIGGS].

Mr. KYL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank the gentlemen for yielding me this time.

Mr. Chairman, as this debate winds down, one plain truth emerges. Our budget deficits are the result of a political crisis, a lack of collective political will and resolve in this body, more than a financial crisis. Another way of putting that is we need not have deficits.

We have to start from that fundamental premise. We need not have a rapidly increasing debt that erodes the quality of life while consuming an ever-larger portion of the Federal budget and the gross national product if only we could muster the collective political will to balance Federal expenditures with Federal revenues. This is a political crisis that the GAO noted in rather prescient fashion in 1989 warrants, "the commitment and bipartisan spirit of compromise in the national interest that our political system traditionally brings to a crisis situation."

Do we need the external discipline of a balanced budget requirement if we already possess the constitutional authority to balance the budget? Well, the answer, again from history, is an unequivocal and absolute yes. Since World War II, we have had the Budget and Accounting Act of 1950, the Impoundment Act of 1974, and in more recent times to invoke some current memories, the Gramm-Rudman-Hollings Act of 1985, and last, but certainly not least in terms of what it has added to the Federal deficit, the Budget Enforcement Act of 1990 with its deficit-reduction plan, an inadequate and badly flawed plan.

Obviously legislative-mandated attempts did not work. Less than 3 months ago, in fact on March 31 of this year, 187 Members of this body voted to tear down the budget agreement firewalls that required defense savings, otherwise known as the peace bonus or peace dividend, to go directly to deficit reduction rather than into more spending or more funding for social programs.

This week or next, as the gentleman from Pennsylvania [Mr. COUGHLIN] commented about a little bit earlier, this House will take up again the urban aid package. When it left this body it had a budget authorization of $500 billion. Unfortunately, the other body reported out a bill with a budget authority of $1.95 billion, and the bill we are going to get on the House floor from the conference committee of the House and Senate has a budget authority of $2 billion, all off budget, all not subject to the pay-as-you-go financing rules of the budget agreement, all adding directly to the Federal deficit.

Since World War II, the Federal Government has spent $1.59 for every $1 it takes in, over the last year, $4 for every $3 it takes in. I find that my constituents back home can far better relate to these figures than hundreds of billions of dollars thrown around here and there.

But I do not think that many people ask themselves where do we get that money, where do we get the extra dollar to cover the deficit in the current Federal fiscal year. Well, we do print a little new money back here at the U.S. Mint. We do add a little money to the M2 money supply. But we cannot do a whole lot of that, because it would be hyperinflationary. Primarily we go out there and borrow from the capital markets where we are directly competing head to head with American business and, of course, we sell instruments of the Federal Government, Treasury bills and Treasury bonds, at auction, and principally to foreign investors, so we are going offshore to finance our deficit as well.

The results? An enormous and constant drag on the economy, costing us, according to knowledgeable economists, about 3 percent per year in lost economic growth during the decade of the 1980's.

In addition to the lost economic growth, obviously we are sapping the life directly away from future generations, but I want to dwell for just a moment on what I think passage of the balanced budget amendment will do aside from the cold-turkey reality of having to bring expenditures into line with revenues.

First of all, it will make no doubt about it, as certain Presidential candidates have been saying, it will expand the economic and employment base of this country. It is probably the single most important thing we can do to stimulate economic growth and to spur private investment and capital formation and to try and create some sort of national savings plan in the absence of an economic growth package.

I will predict to you that we will see an immediate effect in the capital markets and the stock market with probably an 8,000-point Dow by the end of this year if we pass this legislation. It would effectively reverse the perverse incentives that currently permeate American tax policy where we actually encourage consumption and spending over savings and investment. That is a situation that definitely needs to be turned around. It would help affect our imbalance of trade, and it would give some credence to reciprocity in trade when we talk about striving for fairer trade relations.

And last, by causing us to perform our fundamental duty of prioritizing Federal spending, it would cause us to fundamentally reform the budgetary process around here including the enforcement mechanisms necessary to

accomplish a balanced budget and the formulation of a politically sustainable and multiyear budget strategy. It would revolutionize American politics, probably even more so than term limits or campaign finance reform, by empowering Members of Congress. It would be very liberating, indeed, to bite the bullet and make the hard decisions that we must make in the interests of this country and future generations.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Chairman, I rise today to speak for those who are not allowed to verbalize on the floor of this great Chamber—for the young couples who are starting their first home together, for the young women and men who have left the solace of parents and family to establish themselves in the work force, for college students, for high school and elementary students, for their younger siblings at home and even for the yet-to-be-born—these are the people whose future is being mortgaged by the reckless disregard of our Nation's monetary future.

We all share great concern for their future.

All these concerns are for naught if we continue to ignore fiscal responsibility.

We are concerned about improved education, we look for solutions to the health care problem, we worry about the environment. We want to make things better for those who follow.

There is little need for me to reiterate the facts here—that the nearly $4 trillion national debt is increasing at a rate of more than $1 billion a day, that interest on the national debt is nearly half of this year's deficit, that in a few short years interest on the national debt will exceed discretionary funds, that 40 percent of our national debt is owned by foreign interests—we are all quite familiar with the numbers. Yet, we have not taken the necessary steps to correct the problem.

There is an old saying, "if it ain't broke . . . don't fix it!" Today, every infant is born with a debt of $16,000—just 10 years ago, that share of the national debt was "only" $3,000—at the present rate of growth that debt will be nearly $25,000 by the year 2000. I submit Mr. Chairman: the system is broke. It's time we fix it.

The Washington Post and others have criticized this amendment as unnecessary clutter, point out Congress should balance the budget without the threat of a constitutional amendment.

That is good theory. That is how it should be. But, that is not realistic. The President will not submit a balanced budget and Congress will not balance the budget without being forced to do so.

Proof lies in congressional action of the past few years. Time and time again, Congress has recognized the problem. Gramm-Rudman-Hollings was going to force a balanced budget. OBRA was going to force a balanced budget. Yet the problem has only worsened. In less than 10 years the national debt has increased from less than $1 trillion to nearly $4 trillion. Deficits have increased each year. None will be successful without the constraint of a constitutional amendment.

Under our present system, there is no incentive to equalize the budget. There is plenty of blame to go around for our ever-increasing national debt.

The criticism should start with the White House for its inability to present a balanced budget plan. And, as former President Harry Truman would say, "the buck stops here". The final blame falls right here in the Halls of Congress for our failure to equalize income and expenses.

During the terms of every President since Mr. Truman, the Congress has appropriated less than the then sitting President requested—and not since Richard Nixon has a President submitted a balanced budget. In 7 of the last 10 years the Congress has appropriated less than the President has recommended.

No one comes to congressional hearings to testify against appropriations. Nearly everyone appearing before congressional committees is there to present their valid arguments in favor of many excellent programs—and most of our Federal programs are excellent. They are badly needed. But the truth of the matter is can we afford everything we need?

The Congress is at the end of the line. We have gone along to get along. This must stop—now.

Some criticize the push for a balanced budget amendment as a cop out—the easy vote.

Mr. Chairman, this is just not correct. This is not the easy way. Balancing the budget is not the easy way. The easy way is to continue with uncontrolled spending, cutting taxes, and increasing the national debt. Many Members will not be here to face the final consequences of continued undisciplined spending and unbalanced budgets.

Balancing the budget is just the opposite—it's the hard way—but it is the responsible way.

I am a junior Member of this body. I do not intend to stay a junior Member. I plan to continue to serve my constituents in the Congress for many years. Whether I stay 1 term or 20 terms, this is possibly the most important decision I will ever make.

As a former member of the Oklahoma Legislature, I faced just such a situation when Oklahoma's energy-based economy failed several years ago. Oklahoma has a balanced budget amendment which is much more stringent than the amendment being proposed here.

I sat with the leadership as we made the hard decisions—as we cut some excellent programs and as we increased some taxes. We made hard choices, we prioritized programs and we did what had to be done to pass balanced budgets.

In recent weeks I have attended many, many functions in my district—with veterans groups, Social Security groups, retired Federal employees, chambers of commerce, civic clubs. In every case I have discussed the proposed Federal balanced budget. I have told my constituents it will not be easy. I have warned them that their groups might face freezes, or even cuts, in their programs. In every case these groups have agreed a balanced budget is an absolute necessity. They understand the spending reductions they face. All they ask is fairness.

Mr. Chairman, I urge my colleagues to show their concern for our children's future. I urge my colleagues to join us and support the budget balancing amendment.

The material follows:

NATIONAL GRANGE LEGISLATIVE NEWS SERVICE,
Washington, DC, May 15, 1992.

GRANGE ANNOUNCES SUPPORT FOR BALANCED BUDGET AMENDMENT

In a letter dated May 12th that was sent to the full Senate, Robert E. Barrow, Master of the National Grange, strongly urged passage of Senate Joint Resolution 18, a bill that was introduced by Senator Paul Simon. This bill would amend the U.S. Constitution by requiring all future Federal budgets to be balanced. Barrow further urged all Senators to oppose any floor amendments that may be offered to Senate Joint Resolution 18.

In November of 1991, the delegates to the National Grange's 125th Annual Convention passed the following policy that led Barrow to make this stand:

"The National Grange supports a Constitutional amendment requiring a balanced budget as a permanent solution to our deficit problem."

In his letter, Barrow stated that "our national debt and deficit spending have truly reached runaway proportions. Our total national debt now exceeds $4.5 trillion. The gross interest payments on the national debt will be $315 billion in Fiscal Year 1993 (FY'93). That amount is larger than our FY'93 expenditures for national defense and is more than 30 times our FY'93 expenditures for federal farm programs."

He further said that, "Forty-nine states and every private business, farm, and household in the United States are required by law or necessity to spend no more than the current amount they can reasonably expect to take in each year. Grange members believe that our federal government should operate under the same principle."

The Grange is prepared to work with all of our nation's elected leaders in forming a consensus on what would be the fairest and most equitable budgetary decisions possible. We also understand that balancing the budget will require making difficult and painful choices over the next few years, but we cannot be part of a continuing conspiracy to saddle our children and grandchildren with the costs of government that our generation has been unwilling to pay.

TEXAS FARM BUREAU,
Waco, TX, April 23, 1992.

Hon. CHARLIE STENHOLM,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN STENHOLM: The Texas Farm Bureau strongly supports a constitutional amendment to require a balanced budget by the federal government. While we recognize the short term problems that such an amendment might cause, the long term future of the country depends on fiscal responsibility. In addition, a majority of the states operate under this mandated requirement. There is simply no reason why the federal government should not abide by the same fiscal limitations that apply to individuals, corporations and the majority of the states.

It is our understanding that the Congress will consider such an amendment prior to the end of this session. The Texas Farm Bureau would urge your active support for the passage of this constitutional amendment. Your signature on the discharge petition could be helpful in the event that impediments to committee approval occur.

We appreciate your efforts to mandate fiscal responsibility by the federal government.

Sincerely,

S.M. TRUE, JR.,
President.

THE GEPHARDT "BAIT-AND-SWITCH" BALANCED BUDGET AMENDMENT

Majority Leader Dick Gephardt has added his entry to the balanced budget amendment sweepstakes. Unfortunately, it appears that its prime purpose is to prevent any balanced budget amendment from passing the House at all.

Gephardt's amendment: would permit deficit spending by a simple majority vote; exempt Social Security spending from calculations of government outlays for the purpose of determining if the budget is in balance—this could easily be re-defined by statute to include any politically popular entitlement program.

Of course, the real balanced budget amendments being offered by Congressman Charlie Stenholm, and Congressman Joe Barton and Billy Tauzin are far better because they would impose real fiscal restraint, making it difficult (though still possible) to escape the restraint of the balanced budget requirement: ⅗ of both Houses must vote to increase taxes (Barton/Tauzin), or; a majority of the whole number of both Houses must vote to increase taxes (Stenholm); ⅗ of both Houses must vote to run deficits; ⅗ of both Houses must vote to increase the debt ceiling.

The phony Gephardt "Bait-and-Switch" amendment is nothing more than a rock behind which political cowards can hide. They can claim to have supported a balanced budget amendment (which really isn't) and say that they supported an amendment that doesn't touch Social Security (always a politically popular position). In reality, entitlement spending (Gephardt-exempted) must be addressed before any meaningful progress can be made toward a balanced federal budget. Everyone in Washington, and elsewhere, knows that. Too bad the sponsors of Gephardt's amendment don't know that.

(Prepared by USBIC Government Relations C. Bryan Little, Director, June 4, 1992.)

THE BALANCED BUDGET AMENDMENT AND IDEA WHOSE TIME CAME A LONG TIME AGO

The House will soon consider the Balanced Budget Amendment by Rep. Charles Stenholm (D-TX), which failed by only seven votes in 1990. In 1992, it appears likely that both Houses will consider a Balanced Budget Amendment and each will consider a version featuring a strong tax limitation feature. In the house, this will be offered by Reps. Joe Barton, Billy Tauzin, and John Miller, and in the Senate by Bob Kasten (R-WI).

House Democratic leaders will attempt to stop the Balanced Budget Amendment by offering a phony, "Bait-and-Switch" amendment by Rep. Dick Gephardt that would require a balanced budget but would permit Congress to waive that requirement by a simple majority vote—something Congress already does every single year!

Why support a real Balanced Budget Amendment? Here are a few good reasons: Sixty-two cents of every dollar in personal income taxes is spent on debt service; In the Fiscal Years 1991, 1992, and 1993, we will add $1 Trillion to the national debt, for a total of over $4 trillion. It took 200 years for the national debt to reach $1 trillion.

Of a $1.4 trillion federal budget this year, $300 billion will be spent on interest on the national debt—the second largest single item in the budget.

A Balanced Budget Amendment will finally change the balance of the fiscal debate in Washington by changing the underlying ground rules. For the first time, the practice of deficit spending will clearly contravene the highest law of the land. While it is true that politicians could merely ignore both the Constitution and the will of the people, one might ask what might happen if the President suspended the right to a speedy trial or to be secure from unreasonable search. What would be the chances of his re-election?

Under the current ground rules, Congress can spend a lot more, tax a little more, and borrow the difference—giving tax-and-spend liberals an automatic argument to oppose tax cuts and push tax increases. With a Balanced Budget Amendment in place, increased borrowing will be much more difficult (⅗ super majority requirement to raise the debt ceiling) and politicians can be held accountable for choosing to raise taxes to balance the budget rather than concentrating on the real problem, uncontrolled spending growth.

(Prepared by UBIC Government Relations, C. Bryan Little, Director, June 4, 1992.)

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, June 8, 1992.

To: Hon. Charles Stenholm (Attention: Ed Lorenzen)

From: Kathy Dolan, analyst in American National Government, Government Division.

Subject: Waivers of the Congressional Budget Act of 1974.

This memorandum is in response to your request for information on House waivers of points of order under the Congressional Budget Act of 1974 (Titles I-IX of P.L. 93-344, as amended) during the 94th through 102nd Congresses to date.

The table below provides information on specific waivers which were granted by the House during this period through the adoption of special rules providing for the consideration of legislation. Because of your need for a quick response, waivers granted under the suspension of the rules procedure, by unanimous consent, or in special rules containing so-called "blanket waivers" (i.e., which waive all House rules without specificity) are not included. For the 94th through 101st Congresses, these figures were obtained from the *Survey of Activities of the House Committee on Rules* report provided at the end of each Congress and from the Library of Congress SCORPIO legislative database. The information for the 102nd Congress was obtained from the staff of the House Rules Committee and reflect waivers adopted through March 1, 1992. For the 94th through 97th Congresses, information in the above sources regarding special rules tabled by the House is limited. Therefore, for this period, figures in the table could possibly include a waiver which was granted by the Rules Committee but later tabled by the House.

The table provides the number of waivers for each Congress by the section of the Congressional Budget Act being waived. For an explanation of points of order under the Act and House practices for waiving these points of order, please see the accompanying CRS report *Points of Order Under the Congressional Budget Act of 1974* by Edward Davis.

I trust that this information will meet your needs. Please call me at 7-7026 if you need any further assistance.

HOUSE WAIVERS OF THE CONGRESSIONAL BUDGET ACT: 94TH-102D CONGRESSES [1]

Section	Congress								
	94	95	96	97	98	99	100	101	102
302(a)	.....	.....	.....	.....	.....	.....	1	.....	.....
302(c)/602d	.....	.....	.....	.....	.....	2	5	4	.....
302(f)	.....	.....	.....	.....	.....	17	13	13	2
303(a)	6	10	9	1	20	18	2	1	.....
303(a)(1)	.....	.....	.....	2	13	1	1	1	.....
303(a)(4)	.....	.....	.....	9	13	5	3	2	1
303(a)(5)	.....	.....	.....	.....	.....	.....	.....	1	.....
305(a)(1)	.....	.....	.....	1	1	1	1	1	1
305(a)(4)	.....	.....	.....	.....	.....	.....	.....	.....	.....
306	.....	.....	.....	.....	.....	.....	.....	.....	.....
309	.....	.....	.....	.....	.....	.....	.....	.....	.....
310(d)	.....	.....	.....	.....	.....	.....	.....	.....	.....
310(f)	.....	.....	.....	.....	.....	.....	.....	.....	.....
310(g)	.....	.....	.....	.....	.....	.....	.....	.....	.....
311(a)/605a	.....	.....	5	15	12	21	4	6	1
401(a)	16	43	23	21	6	5	1	.....	.....
401(b)(1)	.....	.....	13	7	9	6	7	4	.....
402(a)[2]	3	53	77	42	53	27	.....	.....	.....
606	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total	25	106	127	98	128	103	38	34	5

[1] Figures for the 102d Congress are as of March 1, 1992.

[2] Through 1985, section 402(a) prohibited consideration of authorization measures for the upcoming fiscal year reported after May 15. This requirement was repealed by the Balanced Budget and Emergency Deficit Control Act of 1985 ("Gramm-Rudman-Hollings Act," Public Law 99-177, as amended).

ECONOMISTS SUPPORTING THE BALANCED BUDGET AMENDMENT H.J. RES. 290

DEAR REP. CHARLES STENHOLM AND REP. BOB SMITH: As economists and concerned Americans, we commend your leadership in support of H.J. Res. 290, the proposed Balanced Budget Amendment to the U.S. Constitution. The amendment would challenge Congress to become more fiscally responsible. It also would make Congress more accountable to the people by requiring rollcall votes.

Congress makes daily decisions concerning the budget and the economy. It is these decisions that lead to deficits. A new framework is needed for this decision-making process.

The Balanced Budget Amendment will provide that framework enabling Congress to better control spending.

H.J. Res. 290 requires that estimated federal expenditures not exceed estimated revenues except in times of declared war or unless Congress jointly approves a specific excess of expenditures by a three-fifths vote. The President would sign the joint resolution. The same three-fifths majority would have to approve debt ceiling limit legislation. The measure also calls for a constitutional majority (51 in the Senate, 218 in the House) vote on any proposal to raise revenues. All these votes would be required to be by rollcall.

Additionally, as a partner in the budget process the President would have to submit a balanced budget proposal to Congress.

We, the undersigned, believe the Balanced Budget Amendment is necessary to curb federal spending, to check the growth of the federal debt and to hold Congress accountable so that the people can know who is voting for which proposal, essential requirements for our democracy to work.

Sincerely,

James M. Buchanan, Nobel Laureate—Economics, George Mason University.

Robert D. Tollison, Economics, George Mason University.

Bruce Yandle, Economics, Clemson University.

Michael Copeland, Economics, Montana State University.

Richard E. Wagner, Economics, George Mason University.

Viktor Vanberg, Economics, George Mason University.

Roger Meiners, Economics, Clemson University.

R.F. Hebert, Economics, Auburn University.

Dwight R. Lee, Economics, University of Georgia.

James D. Gwartney, Economics, Florida State University.

Terry Anderson, Economics, Montana State University.

Roger Garrison, Economics, Auburn University.

Shirley Svorny, Economics, California State University.

Viken Tchakerian, Economics, California State University.

Thomas Ireland, Economics, University of Missouri.

Wm. Craig Stubblebine, Economics, Claremont-McKenna College.

Richard C.K. Burdekin, Economics, Claremont-McKenna College.

Richard Muth, Economics, Emory University.

Mark V. Pauly, The Wharton School, University of Pennsylvania.

E.C. Pasour, Jr., Economics, North Carolina State University.

Craig M. Newmark, Economics, North Carolina State University.

Thomas E. Borcherding, Economics, Claremont-McKenna College.

Nancy Virts, Economics, California State University.

Anton Lowenberg, Economics, California State University.

Martin Anderson, Economics, Hoover Institution, Stanford University.

Rodney T. Smith, Economics, Claremont-McKenna College.

Ross D. Eckert, Economics, Claremont-McKenna College.

William P. Jennings, Economics, California State University.

William Riker, Political Science, University of Rochester.

David S. Ball, Economics, North Carolina State University.

Thomas Johnson, Economics, North Carolina State University.

Robert R. Ekelund, Jr., Economics, Auburn University.

Ken Ng, Economics, California State University.

Peter H. Aaranson, Economics, Emory University.

Randall G. Holcombe, Economics, Florida State University.

Thomas D. Willett, Economics, Claremont-McKenna College.

Paul Rubin, Economics, Emory University.

William A. Niskanen, Economics, CATO Institute.

Walter Thurman, Economics, North Carolina State University.

Charles R. Knoeber, Economics, North Carolina State University.

Colin Wright, Economics, Claremont-McKenna College.

Vernon L. Smith, Economics, University of Arizona.

Robert W. Poole, Jr., President, Reason Foundation.

Richard McKenzie, Economics, University of California, Irvine.

□ 2150

Mr. BARTON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the Stenholm balanced budget amendment.

Mr. Chairman, who do the opponents of this amendment think they are fooling? Their voting records speak for themselves. They are the biggest taxers and spenders in the history of this body.

I find it interesting that many of these opponents claim the amendment is unworkable. If this were true, they would not oppose it. It is precisely because this amendment will reduce out-of-control spending that they use it in their scare tactics.

I must, however, congratulate the opponents of this amendment for their efforts to scuttle it. First, they attempt another worthless statute so they can be on record for some sort of balanced budget vote.

That having failed, they are using scare tactics against our Nation's retired senior citizens, intimidating them by using fabricated numbers of what would happen in a worst case scenario.

Mr. Chairman, in my view the amendment's opponents know the American people are against them on this issue, and this is a mean-spirited attempt to garner political advantage out of their situation.

I find it interesting that many Members such as myself, who represent the largest numbers of retired citizens have been the strongest supporters of Social Security and a balanced budget amendment. This includes Democrats and Republicans.

Suddenly the balanced budget amendment's opponents are stronger supporters of Social Security than those of us who represent the most retired individuals. Again, who are they fooling?

Along with being a scare tactic, their Social Security scheme is a gigantic loophole. It will allow them to classify all of their favorite pork projects as Social Security and continue business as usual.

The majority party in Congress will have a large say in what programs will be cut to balance the budget if this amendment passes. Therefore, Social Security will only be cut if they support the cut—and they know that.

Finally, we are not enacting a balanced budget amendment. This amendment must be ratified by 38 States. We are giving the people the right to decide, and that is how it should be. It could be 4 or 5 years before this amendment is ratified and the people of this country will make that decision.

Mr. Chairman, I say to my colleagues that we have borrowed—no—we have taken—from our children and grandchildren long enough. Congress has amply demonstrated its inability to balance the budget. The time to act is now—before it is truly too late. The greatest gift we, the Congress, can give our children, grandchildren, and future generations is a balanced budget. Let us get on with it.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS. Mr. Chairman, I rise tonight in strong and unshakable support for the Stenholm balanced budget amendment. I did not come to Congress to spend the country into bankruptcy. I came to Congress to help save the country from bankruptcy for our sake and for our children's sake.

The balanced budget amendment is the beginning of our fiscal salvation as a nation. It is just the beginning, but it is the beginning.

I have heard the arguments of those who say that the amendment is an illusion, that it is a charade, that it will not work, but I have also heard the pleas of special interests of all kinds urging us, in every way possible, to vote no on this amendment. They are calling, they are writing, they are lobbying. The are urging us to vote no because they know this amendment will work. They know that it is already working. They have seen the outcome of some recent votes in this House when special pork barrel spending has been defeated. They have seen the progress of procedural budgetary reforms that are moving through this House because of the impetus of this amendment. They have seen our progress already on proposed implementation legislation to follow up on this amendment. None of this would have happened without this balanced budget amendment. With it, it will all come true. It all will happen.

Mr. Chairman, the debt threat is real. The balanced budget amendment is real. The consequences of this amendment will be real and I, for one, am willing to make the tough choices that those consequences will dictate. That is why I came to the Congress.

Mr. STENHOLM. Mr. Chairman, I yield 8 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I thank the gentleman for yielding me this time.

Everybody knows that we have to drastically reduce the deficit. People on both sides of this argument know that. It is killing our economic future in at least four ways.

No. 1, it is reducing our productivity by starving investments in our economy.

No. 2, it is mortgaging our economy to foreigners as more and more of the borrowing we have to do comes from Japan and other overseas savings surplus countries.

No. 3, it is transferring billions of dollars from moderate-income taxpayers to upper income bond holders.

No. 4, it is keeping interest rates higher than they would otherwise be—some have suggested 200 basis points—which is tax on every mortgage. A tax on every car payment. A tax on every consumer obligation. In short, it is a tax on the middle class.

The Citizens For Tax Justice, headed by President Carter's budget director, Jim McIntyre, points out what an extraordinary transfer of wealth from middle-income people to the richest people is taking place as a result of the deficit. It is not only crippling our economy and our future prospects; it is not only mortgaging our country to foreigners, but it is actually one of the most unfair things we could do to the middle class.

The Federal deficit is causing, an extraordinary crisis, and an extraordinary response is required.

Let me respond briefly to some of the criticisms that are being made against the balanced budget amendment, the same criticisms that I myself have voiced in the past when the deficit was not so extraordinary as it is now.

No. 1, it has been said that we should not put economic policy in the Constitution. Well, there is already substantial economic policy in the Constitution. The Constitution talks about trade. It talks about money. It talks about commerce.

I am happy to say that a majority of Democrats in our caucus are now in favor of one version or another of putting a balanced budget amendment in the Constitution, including our majority leader, the gentleman from Missouri [Mr. GEPHARDT]. That is a change for a lot of us.

No. 2, it is said that most economists are against the balanced budget amendment. Well, most economists are against a straitjacket version. I myself am against that version. But that is not the Stenholm amendment. The Stenholm amendment does not prohibit absolute imbalance, but it makes it harder. It requires a three-fifths majority, unless we are at war, et cetera.

Specifically, it would continue to allow us to meet our obligations, to manage the macroeconomics of this country by allowing temporary deficits in order not to be forced to raise taxes in a recession, which we would not want to do. So it has removed the major reasons why most economists have traditionally been against it.

No. 3, it is said that the balanced budget amendment does not itself balance the budget—a criticism we have heard here tonight. That is true. It does not balance the budget by itself, but it does change the ground rules whereby we make budget decisions.

Opponents say the Congress and the President should simply have the will and the judgment to balance the budget. We should, but we obviously do not. And it has become harder to muster that will as we go along because we have gotten in deeper and deeper in debt each year. It takes more will this year than it took last year, because of compound interest, the hurdle gets higher and higher. It took more will last year than it took the year before. And it is going to take more will next year than it took this year.

Being the realist that I think I am, I realize that will alone will not do it. Judgment alone will not do it. We should have the will and the judgment not to speed in our automobiles, but we have speed limits because we realize that judgment and will are not always enough.

The key point is that the Stenholm amendment changes the ground rules to make it significantly harder to increase the debt.

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I would like to make a key point: Under the Stenholm version of the balanced budget there are three things that we would have to do if we find our budget will be imbalanced. We would have to cut spending, and that takes a majority, a simple majority, not a supermajority. Or we would have to raise taxes—again by a simple majority, not a supermajority. Or we would have to increase the debt—specifically choose increased debt.

We would have to do one of these three things. Right now, under our current system, we do not have to select the debt. We move between the spending cut and tax increase axis, and debt becomes simply an outcome, not a chosen result. We do not like taxes; we do not like cuts, and the debt just goes up, not as a chosen outcome but as a result. When that finally happens, we say we have to meet our obligations and we increase the debt ceiling. At that point we have no option but to do so.

But if we had to select a certain level of debt in advance, and do so by a supermajority, it would change the whole set of conditions affecting the choice. Changing the ground rules would change the whole chemistry of the process. And that would change the result. It would mean far lower new debt. That is good, for of the three possible outcomes—more taxes, sharper cuts, or more debt, more debt is the worst.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. MOODY. I yield to the chairman, the gentleman from California [Mr. PANETTA].

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, I think that actually is a very good poster that the gentleman has presented because he shows that the ultimate answer is to either raise taxes or cut spending or do both. And that is the answer.

Mr. MOODY. I thank the chairman of the Committee on the Budget for pointing that out. Any serious solution may have to take a combination of efforts. At the same time, we may decide to increase debt some, as part of the outcome, but at least we are going to have to select it, and select it in advance. We're going to have to own up to it. And it would take a three-fifth's majority.

That brings me to my final point, and that concerns the question of a supermajority. That is the so-called evils of a supermajority for debt. I do not like supermajorities, generally. But we believe in supermajorities, of one size or another, when we want to prevent a very bad outcome. For example, having an unresolved conflict between the President and the Congress is a bad outcome, so we give the minority of one-third plus one the ability to resolve that impasse—in favor of the President in that case. In the judiciary, we also give the minority a special role. To prevent the very bad outcome of convicting an innocent man, we give 1 out of 12 jurors—a true superminority—the power to stop that outcome.

In the Senate, where they are dedicated to unlimited debate, we give 40 percent plus 1 the ability to prevent a shutoff of debate. In the House, where the Democrats have a clear majority we give the minority 50 percent control of the Ethics Committee. And now the administration of the House, we will give the minority 50 percent control. So we recognize that it is important sometimes to give the minority disproportionate power.

Finally, let me say when we realize that stopping a very bad outcome, in the form of new Federal debt, we should be willing to give a minority of two-fifths that power. To safeguard our country's productivity, our economic destiny, and our children's future standard of living, we must change the budgetary ground rules spelled out in the Constitution.

[From the U.S. General Accounting Office]

BUDGET POLICY—PROMPT ACTION NECESSARY TO AVERT LONG-TERM DAMAGE TO THE ECONOMY

The nation's long-term economic future depends in large part upon budget and investment decisions made today. Current trends, however, are not encouraging. Federal budget deficits have absorbed increasing proportions of national saving that would otherwise have been available to finance investment, either public or private.

In addition to their effect on national saving and investment, the deficits and the short-term budgetary focus they have engendered have placed and continue to place a disproportionate strain on federal investment activities. Investment in physical capital, human capital, and research and development plays a key role in economic growth, directly and by creating an environment conducive to private sector investment. Yet these spending categories have declined as a share of total federal spending.

Failure to reverse these trends in fiscal policy and the composition of federal spending will doom future generations to a stagnating standard of living, damage U.S. competitiveness and influence in the world, and hamper our ability to address pressing national needs.

This report is the second of a series addressing the long-term implications of the federal budget deficit. In "The Budget Deficit: Outlook, Implications, and Choices" (GAO/OCG-90-5, September 12, 1990), GAO discussed the dimensions of the deficit problem, policy options that might be adopted to attack the problem, and basic budget reform initiatives. This report builds on and moves beyond that discussion by examining the role of federal fiscal policy in increasing economic growth, specifically in increasing the amount of investment and/or the return on investment. In addition, the report discusses how changes in budget presentation and process might help decisionmakers place a greater emphasis on long-term consequences of budget decisions.

DEFICIT REDUCTION IS NECESSARY TO INCREASE FUTURE ECONOMIC GROWTH

Long-term economic growth is central to almost all our major concerns as a society. Investment is critical to economic growth. The surest way to increase the resources available for investment is to increase national savings, and the surest way to increase national savings is to reduce the federal deficit.

However, despite the passage of various deficit reduction measures, deficits remain embedded in federal fiscal policy. Legislation such as the Balanced Budget and Emergency Deficit Control Act of 1985, (commonly known as Gramm-Rudman-Hollings), and the more recent Omnibus Budget Reconciliation Act of 1990 (including the Budget Enforcement Act) constrained deficits but have not stopped their growth. Both measures suffered from significant, albeit different, design problems. Gramm-Rudman-Hollings exempted the largest domestic programs and encouraged misleading budgeting and accounting practices. The Budget Enforcement Act (BEA) places temporary caps on discretionary spending but for mandatory spending such as Medicare, Medicaid, deposit insurance and interest costs—the factors that now drive the deficit—the BEA only constrains legislated policy changes. Neither law contained a mechanism to force a reconsideration of past decisions or of the design of existing programs in light of their current and future effect on the deficit.

The average unified budget deficit during the decade of the 1980s was 4.1 percent of the Gross National Product (GNP), up from 2.1 percent the previous decade. At 6.3 percent of GNP, the Congressional Budget Office's (CBO) fiscal year 1992 deficit of $368 billion exceeds these averages. Although CBO projects deficits to decline to around 3 percent by 1997, the average deficit for the 1990s will remain at 4 percent. Moreover, absent a change in policy, CBO projects deficits again rising toward the 4 percent deficit level through the turn of the century.

If nothing is done to reverse current trends, deficits could explode over the longer term. If current tax and spending policies are continued, GAO's projection of current trends, using an adaptation of a long-term growth model developed by the Federal Reserve Bank of New York, suggests federal spending could increase from 23.3 percent of GNP to 42.4 percent of GNP by 2020 while revenues could rise from 20.3 to 21.8 percent.

The resulting explosion of the deficit to 20.6 percent of GNP by 2020 is due in part to the projected dramatic rise in spending for interest, health care, and retirement and in part to the fact that higher deficits and lower savings slow the growth of real GNP.

Although such "no action" projections are useful to illustrate the need for policy change, inaction is not a sustainable policy. If timely policy action were not taken, at some point external events would force belated and more painful policy changes. Accordingly, the key question facing policymakers is not whether to undertake major deficit reduction, but when and how. GAO's analysis shows that the timing of deficit reduction has a great impact on both the amount of sacrifice required and the economic benefits realized.

DEFICITS INHIBIT INVESTMENT

The short-run damage from deficits may not be as visible as the short-term costs involved in dealing with it. However, deficits matter in the long run because they consume savings that otherwise could be productively invested. Federal borrowing to finance the deficit has absorbed an increasing portion of net national savings since the 1960s. Meanwhile, the national saving rate declined during the 1980s. As a result, at the same time federal borrowing was increasing, net national savings available for new capital investment was dropping sharply.

In the absence of increased national savings, deficits must be financed either by a reduction in private investment or by an influx of foreign capital. During the 1980s, foreign capital helped finance government borrowing and permitted investment to exceed the level national savings alone could support. The deteriorating U.S. net international investment position shows the nation's increasing reliance on foreign investment during this period.

Although in the short run such reliance has prevented capital shortfalls, in the future, profits and interest payments will flow abroad from the U.S. Furthermore, should foreign investment decline, the nation could face increased interest rates as the reduced availability of capital raises its cost. An increase in national saving and a reduction in federal borrowing would reduce U.S. dependence on foreign capital and help cushion the U.S. economy from the effects of reduced foreign investment levels.

If the budget deficits had financed an equivalently higher level of public sector investment, the depressing effect on long-term economic growth might have been mitigated. But that is not what happened. When deficits are embedded in the budget as they are today, each year's interest costs add to the deficit an increment which must in turn be financed by still greater interest payments. Only policy changes that reduce the underlying deficit can cause a permanent shift in this pattern. The continued growth of interest costs, and that of "other" mandatory spending has meant a decline in funds available to finance discretionary programs. Since investment-oriented programs are financed out of discretionary funds, this shift in the composition of federal spending has dictated a decline in funding for investment.

Economists generally agree that well-chosen public investments aid economic growth, although the impacts of specific types of investments vary greatly and are still debated. Federal spending with the greatest long-term economic payoff—investment in nondefense physical capital, public programs, enhancing human capital, and in research and development (R&D)—has dropped as a percent of GNP while spending for consumption and interest on the debt has absorbed an increasing share. The share of federal outlays devoted to investment has recently been surpassed both by outlays for health and for net interest on the public debt.

BUDGET REFORM IS NEEDED

Although the budget process cannot be blamed for the existence of or the size of the deficit, changes in that process are necessary to facilitate and encourage focus on the long-term consequences of decisions.

FISCAL POLICY SHOULD SUPPORT LONG-TERM ECONOMIC GOALS

At the macroeconomic level, the budget process needs to adopt a longer term planning horizon linking fiscal policy with broader goals for the performance of the economy. Such long-term economic goals as real GNP growth and domestic savings should become the focus of policymaking which should then drive subsequent fiscal policy choices needed to attain these goals.

The kind of policymaking framework would seek to change the terms of the policy debate by focusing attention on economic goals and associated fiscal policy paths some 30 years into the future. The significant but short-term sacrifices of deficit reduction could be more easily compared with the long-term benefits accruing from such changes in budget policy. Further, when considered over the longer term, deficit reduction savings become exponential, thanks largely to reductions in net interest expense and in other areas where spending and revenues are influenced by the performance of the economy.

INCREASE THE BUDGET'S INVESTMENT ORIENTATION

Although federal programs vary considerably in their impact on the private economy, the present budget process and structure do not encourage decisionmakers to take these differences into account in allocating resources. Further, there is no framework to consider the investment implications of federal tax policy subsidies, such as depreciation rules or the research and experimentation tax credit, when making decisions on related spending programs. If planning for long-term economic growth is to become a central objective of the budget process, a new decisionmaking framework is needed, one in which the choice between consumption and investment spending is highlighted throughout the decision process, rather than being displayed for information purposes after the fact.

If such a framework were in place, the Congress, each year, could determine explicitly the aggregate funding for total investment-related programs, as well as for the physical capital, human capital and R&D components of that total. To support such a decision process focusing on investment choices, improvements would be needed in the tools and information used to evaluate the relative impacts or rates of return of the various federal investment programs, to ensure that limited federal resources are used to promote the best choices among competing strategies and programs.

GAO believes that the one-year-at-a-time focus of budgeting has failed to serve the na-

tion's needs. To build the foundation for a more productive nation in the future, it is essential that the budget process adopt a more future-oriented focus with respect both to aggregate fiscal policy and to the composition of spending.

CONCLUSION

A continuation of our current taxing and spending policies would, if sustained, slow economic growth, drive the deficit to 20.6 percent of GNP, and lead to a world in which the federal government pays rapidly increasing interest bills, rapidly increasing health care costs, and an enormous retirement bill. The economic and political reality is that the nation cannot continue on the current path. The question is when and how to act to reduce the federal deficit.

Changes of the necessary magnitude require a discussion of what the American people wish their government to do and how they wish to pay for it. The sooner action is taken to bring the deficit under control and to make the composition of federal spending more conducive to investment, the less the sacrifice, and the greater the benefit.

INTEREST PAYMENTS CREATE A TRANSFER OF WEALTH TO THE WEALTHY AND CROWD OUT MONEY FOR WORTHY PROGRAMS

Net interest will exceed $200 billion this year, gross interest will exceed $315 billion. Interest payments are a Pac Man devouring money in the federal budget. Interest payments are:

8 times higher than expenditures on education.

50 times higher than expenditures on job training.

55 times higher than expenditures on Head Start.

59 times higher than expenditures on housing programs.

140 times higher than expenditures on childhood immunizations.

Until we control our deficit problem, interest payments will continue to devour increasingly larger portions of the budget.

In 1960, interest payments consumed 6% of the budget.

In 1970, interest payments consumed 7.4% of the budget.

In 1980, interest payments consumed 8.2% of the budget.

In 1983, interest payments had increased to 11.1% of the budget.

This year, interest payments will consume 14% of the budget.

Interest payments will cripple the ability of future generations to make necessary investments in education, health care and other programs.

Interest payments will continue to crowd out funding for discretionary programs. GAO has estimated that interest payments could reach $1 trillion dollars by the year 2020 if we fail to deal with the deficit.

As Joe Kennedy said before the House Budget Committee: "While we hoard the crumbs, the whole loaf is being taken away from us."

Interest payments represent a transfer of wealth to upper-income individuals and foreign investors.

Interest is paid to individuals who own Treasury Bills—primarily the wealthiest 10% of citizens.

Approximately 14% of interest payments are sent overseas to foreign investors.

Mr. BARTON of Texas. I thank the distinguished chairman.

Mr. Chairman, I understand how difficult it is to keep up with the debate rotation. It is similar to keeping up with the rotation of the pitching staff of your beloved Baltimore Orioles. I want the chairman to know that the speakers in the Barton-Smith group are raring to go out of the bullpen at any point in time.

With that, Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today in strong support of a constitutional balanced budget amendment. Such an amendment was the first request that President Bush made of Congress in February 1989, and it is an issue that I have supported since the day I ran for this office. In this 102d Congress, I am an original cosponsor of House Joint Resolution 290, and strongly support its provisions before us today. I will support any constitutional amendment to balance the budget, which we will have an opportunity to vote upon.

As everyone here is painfully aware, our national debt is perilously close to $4 trillion and is climbing this year by another $400 billion. The interest we pay on this debt is almost equal to the deficit we are running, approximately $316 billion for fiscal year 1993. This scenario sounds much like that of a bankrupt business seeking advice from a financial counselor—one who is actually paying as much interest on debt as is his current year's new debt.

Mr. Chairman, 61 percent of all individual tax revenues, 61 cents for every dollar that your constituents pay in income tax this year, will be used to pay interest on the debt—not the principal, just interest. This interest is more than the total revenues of the United States in 1976.

We are in a volatile situation that Congress has been unwilling to solve through intransigence and partisanship. The time has come for bold action. Of all the issues that face us today, the single issue that worries my constituents the most is the budget deficit.

It has been argued by opponents of a balanced budget amendment that particular programs such as Social Security and Medicare will be cut at the expense of the honorable senior citizens of this country. Mr. Chairman, nothing could be further from the truth. These are arguments being presented to the public by opponents of a balanced budget—opponents who currently survive on special interest programs that very well may be cut in an effort to balance the budget.

The Social Security trust fund is currently protected by law and the rules of the House. The amendments before us today do not change this fact. I have and always will favor the protection of the seniors in my district and this country. They are not a special interest, and I am outraged by those who would mislead senior citizens for their own selfish benefit.

The constitutional amendments before us today would force us to balance our budget before the end of the century. Not until this is accomplished can America again be a world leader, both economically and politically. It is time for political courage and a time for an end to partisanship. Let us do what is right for this country and not be derailed by those who favor spending over accountability.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentlewoman from South Carolina [Mrs. PATTERSON].

Mrs. PATTERSON. Mr. Chairman, I rise today in strong support of the balanced budget amendment.

To those who say we currently have the authority to balance the budget, I say you are right. As some of you have pointed out, what we need is the willpower to make the tough choices. Well, that is why I am here—to make those tough choices.

People who know me know I do not get mad often or easily. Today I am angry. I am angry about what we are doing to this, and the next, generation.

The debt we run up today will have to be paid tomorrow. Our children and our children's children are not here to object to this spending spree, but they will have to pay for it. Future generations are not here to raise their voices against taxation without representation, so I will do it for them. I believe that all Americans have a right to life, liberty, and the pursuit of happiness unincumbered by onerous debt.

We can remind each other of the $4 trillion debt, or the $400 billion deficit, but until we look at what this means to each one of us, these are just numbers on a page, and echo in these halls. In 1990, if we divided up the Federal debt, every American would owe about $13,000 per person. Last year people of South Carolina would have barely made enough to cover it, at about $15,000 per person.

Mr. Chairman, I am angry at those special interests and lobbyists who use fear and scare tactics on senior citizens, on children, and on the vulnerable of our country, I say shame on you—telling the people of my district untruths about what the balanced budget amendment would do to Social Security. I have protected that trust fund in the past, and I will do so in the future.

We are here in the House of Representatives, both supporters and opponents alike, to debate issues. The fact is, as soon as next year, the interest on the debt will be the largest item in the Federal budget—more than Social Security, more than defense, and more than any domestic program.

We have heard so much today about who will be hurt if this amendment passes—senior citizens, children, aver-

age Americans. I ask you, who is hurting now?

Let us look at this flip side of this—who stands to gain if this amendment fails? It is not the old folks, the children or the middle class; they do not have enough money to loan to the Government. They are the ones who have to pay for it.

Who holds our IOU's? Some of the wealthiest entities on the planet, including foreign governments.

What have we come to when spending what you have is such an overwhelming idea? What has this country come to? The balanced budget will require us to have priorities. If we continue on our current track, we will not have to worry about the policy initiatives we all support—the important programs we believe in—if we do not balance our budget, we will jeopardize their very existence. We will not be able to fund them.

Mr. Chairman, I support the balanced budget amendment. I will not be driven by beltway politics and special interest coalitions that claim to look out for the best interest of citizens. I offer my hand to my colleagues and our citizens. We all have to make the tough choices. We all have to work together to make it work.

TESTIMONY BY RICHARD W. RILEY, GOVERNOR OF SOUTH CAROLINA, 1979–1987

Mr. Chairman, it is a pleasure for me to have the opportunity to appear before you this morning along with my fellow former governors and current governors. I want to thank you and the Committee for taking a day of your important time and hearing from the states regarding this important issue to our Country.

It has been my position in the past that a balanced budget provided in the United States Constitution was a political "cop out" and that, before approving such an amendment, we should first develop fiscal discipline to show that this simple statement in the constitution could be responded to without throwing our country's progress into a tailspend. However, with the horrible increases in our national debt and the wild deficits occurring over the last decade, it is now my feeling that some drastic constitutional safeguard should be considered and put in place.

We, in South Carolina, have taken a number of steps to keep our fiscal house in order and perhaps our experience will be of some use to you. Ours is not one of the wealthier states and we have no easy revenue source to rely upon. We pay for what we get from government and we get no special favors from any source. Perhaps our method of handling our rather austere finances will be of special help to you as you face this national crisis of run-away debt.

South Carolina, along with only five other states, has a triple-A credit rating with both Standard and Poor and Moodys. Also, because of the accumulation of mandatory reserves, it has managed to weather the current recession with much less trauma than most other states. These facts along indicate to us that we are doing some things right. I fully recognize that there are vast differences in size, scope and complexity between fiscal activities of the various states and those of the federal government. It is, therefore, my intention to simply outline salient facts pertaining to South Carolina's experience with budget development, limitations and oversight. I shall attempt to draw some correlations. And, I shall then attempt to answer any questions you might have.

BUDGET DEVELOPMENT

Revenue estimates

South Carolina statutes call for a single source for revenue estimates. The Board of Economic Advisors is responsible for original estimates as well as periodic updates and is composed of a gubernatorial appointee serving as chair, an appointee of the Chairman of the Senate Finance Committee, an appointee named by the Chairman of House Ways and Means Committee, and the Chairman of the State Tax Commission, who serves actively but without the right to vote. He holds his office through appointment by the Governor.

It is interesting to note that of the three appointees, none is from government. One is a retired banker, another is an active banker and the chairman is an economist. Over the years this Board has had a very good track record of revenue estimates and the concept of a single body making these official estimates has been well accepted by both the executive and legislative branches.

Unitary operations budget

In South Carolina, the entire operating budget is considered in one bill which includes both the appropriation of State money and the authorization to spend specified amounts of federal and "other" funds.

A balanced budget is recommended by the Budget and Control Board (to be discussed later) and as a matter of tradition it is considered first by the House and then by the Senate. The Governor has item veto power for any appropriation bill. Supplemental appropriations are permitted but are the exception rather than the rule.

If additional or "other" funds are obtained, they may be expended only with the approval of the Governor after review and comment by a legislative committee known as the Joint Appropriations Review Committee.

Open-ended appropriations

Appropriations acts in South Carolina have no open-ended items except debt service. Each act carries a proviso that all appropriations are the maximum. The law provides that any agency head who exceeds his or her budget without approval of the Budget and Control Board can be held personally liable.

Off-line budgets

The State has only three agencies whose budgets are not appropriated and/or authorized in the appropriations act. These are the Ports Authority, the Public Service Authority and the Railway Commission. None of these receives funds from the State and all of their indebtedness is the sole responsibility of that entity.

Entitlement programs

While several appropriations are driven by federal entitlement programs, agencies are required to modify the corresponding state programs which are in danger of exceeding our "matching" appropriated funds.

There are safety valve procedures involving the Budget and Control Board and the General Assembly but in most cases reductions are required.

Retirement funds

In our State there is a constitutional requirement that the retirement systems be actuarially sound and that the funds be utilized only for retirement purposes.

Capital budget

The approval of capital projects is considered separately from the operating budget. Capital items are addressed on a biennial basis and, while the cost of a project may be included in the appropriations act, such costs are usually funded through the issuance of bonds. The annual debt service on the State's indebtedness is included in the Appropriations Bill.

A generally accepted rule is that the funded item or project must have a longer life than the term of the indebtedness. This procedure prevents non-capital or short life items from appearing in a bill authorizing long term indebtedness and forces them into the operating budget where they belong.

CONSTITUTIONAL LIMITATIONS

In testimony before your Committee on April 29, 1992, Dr. William A. Niskanen pointed out that, for its first 140 years, the Constitution of the United States was strictly and narrowly interpreted. This served to severely restrict spending at the Federal level. However, he further observed that during the last sixty odd years we have reached the point of viewing virtually any expenditure approved by Congress as being constitutionally acceptable.

To a somewhat lesser degree South Carolina and the other states have come under the same pressures to provide more and a broader range of services to be financed with public funds. As the resulting expenditures accelerated at an alarming rate, calls came from within the General Assembly, from the business community and from citizens at large for restrictions to maintain the fiscal integrity of the State. Voluntary efforts and even statutory requirements failed to stem the tide, so in recent years, a number of provisions have been added to our State Constitution limiting the spending of public monies, limiting debt and hiring. (South Carolina Constitution, Art. X, Section 7, Attachment I)

It has been our experience that these limitations have had a positive effect and none has proved to be detrimental. Most of these limitations were placed in the Constitution in the early 1980s during my Administration and at my request. They are as follows:

(1) Balanced budget: All states, with the exception of Vermont, have some sort of requirement for a balanced budget and South Carolina's mandate is contained in its Constitution. The simple and straightforward wording is as follows:

"The General Assembly shall provide by law for a budget process to insure that annual expenditures of state government may not exceed annual state revenue."

This precept is so ingrained in our citizens and General Assembly that it is never questioned.

(2) Spending and personnel limits: In our State there are constitutional limits on increased spending and on the number of personnel paid from appropriated funds. The limit on increased spending is determined by the average growth of the State's economy while the limitation on the number of employees is determined by the population growth. Neither of these limits has ever been reached, but both have played a very positive role in requiring legislators to give serious thought to present and future priorities for spending and hiring.

(3) General and capital fund reserves: The Constitution of South Carolina requires a 3% General Fund Reserve and a 2% Capital Fund Reserve. (South Carolina Constitution, Art. X, Sec. 36, Attachment II) The General Fund Reserve is a cash reserve and may be used

only if needed to avoid a deficit at the end of a fiscal year. Replenishment must begin under a defined formula during the next succeeding budget cycle.

The Capital Fund Reserve is a budgetary reserve and must first be used to offset any anticipated revenue shortfalls. If not needed to balance the budget, it may be used for capital expenditures or other one-time expenditures. It should be noted that prior to the constitutional amendment, efforts had been made to establish a voluntary budget reserve fund, but this reserve was immediately ignored.

(4) Limit on debt service: Our Constitution has for a long time provided for a limit on bonded debt by restricting the amount of annual debt service to a given percentage (5%) of the prior year's general fund revenue. (South Carolina Constitution, Art. X, Sec. 13). This has been a very positive influence in requiring lawmakers to give serious consideration to capital priorities and to hold the State's debt to an acceptable limit.

Budget and control board

A discussion of the fiscal situation in South Carolina would be incomplete without some comments about the State Budget and Control Board. This Board is composed of five members: the Governor who serves as Chairman, the State Treasurer, the Comptroller General, the Chairmen of the Senate Finance Committee and the House Ways and Means Committee.

For historical reasons too numerous to discuss here, our Governor has very limited statutory authority and many duties which are traditionally placed in his hands are assigned to the Budget and Control Board. These include the development of the budget recommendations to the General Assembly and the oversight of the budget after it has been adopted.

The aforementioned responsibilities include the continuous monitoring of revenue collections and agency expenditures and the ordering of budget reductions in the event of revenue shortfalls.

While purists among the family of political scientists stoutly maintain that the composition of the Budget and Control Board is unconstitutional, it has stood the test of several challenges before the State Supreme Court.

With respect to the activities of the Board, two facts need to be mentioned that have contributed significantly to the fiscal integrity of South Carolina and are particularly pertinent to this discussion:

1. It has been variously estimated that approximately 95% of the budget as recommended by the Board is ultimately included in the resulting appropriations act.

2. The Board has consistently and very effectively carried out its duty to order and oversee the implementation of budget cuts to avoid deficits.

Dr. Bernard T. Pitsvada, a professor of Public Administration at George Washington University, has been a critic of federal budgeting procedures and has had a particular interest in alternatives. He has found the idea of the Budget and Control Board intriguing.

In an article entitled "The Executive Budget—An Idea Whose Time Has Passed" (Public Budgeting and Finance; Vol. 8, Number 1), Dr. Pitsvada writes of South Carolina "These * * * budget practices demonstrate rather ingenious methods to defuse budgetary conflict before it begins."

He also wrote that "it is very unlikely that * * * the South Carolina * * * approach to budget preparation would ever be adopted in toto at the federal level. They are detailed here only to demonstrate the imaginative type of approach that is used and works elsewhere."

SUMMARY

In summary, I believe that the State of South Carolina has a very workable and responsible fiscal system which provides for the fair involvement of the executive and legislative branches. Our people feel that we have a carefully defined budgeting process which contains the following strong points:

(1) Before the process begins, all participants know and accept that a balanced budget is constitutionally required.

(2) A single entity of appointees, named by the executive and legislative branches, provides the revenue estimates which are utilized by all parties involved in the budgetary process. This entity, The Board of Economic Advisers, is given as much autonomy as is practical and is generally removed from the political process.

(3) At every stage of consideration of our Appropriations Bill, from the beginning through final passage, it must be within the estimated revenues as required by our Constitution.

(4) Authorizations for capital projects are contained in separate legislation, but debt service is included in the Appropriations Bill.

(5) There are no open-ended appropriations except debt service which is itself subject to a constitutional limit.

(6) The unified budget contains all expenditures (including state, federal and other funds) except for three off-budget agencies. These agencies receive no State funds and their financial obligations are specifically their own.

(7) The Governor has the line item veto for all appropriations.

(8) A clearly defined process is in place for monitoring the budget and making appropriate reductions if necessary to avoid a deficit.

(9) Reserves are provided as a safety net in the event that budget reductions are inadequate to prevent a year-end deficit.

While not perfect, I believe that South Carolina has a good budgeting system, parts of which are quite similar to the provisions proposed in H.J. Res. 290.

To draw upon our experience and using H. J. Res. 290 as a vehicle, I would observe:

1. Congress and the President must agree on an estimate of total receipts by passing a law declaring what the official estimate is for the next fiscal year. This is absolutely necessary and I would submit the model of my State's Board of Economic Advisers as an option for the process of anchoring this down.

2. For specific spending approval over estimated receipts, the weighted vote (3/5ths of the whole number of each House) and the rollcall vote would be a significant improvement. This is not as stringent as the South Carolina requirement but it would bring clear attention to the people and to the Congress that this "balanced budget" discipline is very important and should be followed. I note with interest, Congressional Budget Office Director Reischauer's concern that "a balanced budget amendment risks interfering with the ability of the federal government to stabilize the economy." I share this concern that our federal government should have the flexibility to deal with unusual times and economic conditions. This 3/5ths weighted vote provision would help resolve this concern. To gain flexibility, he had some interesting ideas about having the budget balanced over a moving five-year period, or that we look at a two-year budget which is a concept I have long been interested in.

3. The President should transmit to the Congress a proposed budget which is in balance. Again, Dr. Reischauer suggested that if this requirement was put in place, the President have a reasonable period of time to reach this requirement, such as five years. This also would make good sense to me.

4. The broad definition of "Total receipts" and Total outlays" including entitlement programs is how we handle our limitation and, in my judgment, is absolutely required to make good sense out of a balanced budget amendment. There should be no open-ended appropriations except for repayment of debt. These open-ended programs should be included in the budget and at certain intervals during the year, be re-visted. If the projections are low, some approval process should be provided for increasing the appropriated amount or cutting the program. But, a discipline is required in this area and it would be healthy for it to be within the budget process.

I read recently that Mozart was once asked, "What are you trying to express by your music?" He replied, "If I could express it in words, I wouldn't need the music." The mere words of a balanced budget requirement in our Constitution will not play the beautiful budgetary music of eliminating our deficits—but, if seriously addressed and carefully crafted, it could provide the words for a beautiful melody. We, as a people, and our government must be willing to suffer the pain and develop the discipline to make the beautiful music come forth.

Thank you, again, for permitting me to appear before you. I hope this information will be of use to you.

□ 2210

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. HANCOCK].

Mr. HANCOCK. Mr. Chairman, I have heard a lot of eloquent speeches over the past several hours—most are logical with basic common sense and some that, in this Member's opinion, defy logic and basic common sense.

Let us look briefly to history and some of the learned and eloquent statesmen of the past.

Paraphrasing President Franklin D. Roosevelt, who said in the 1930's: A country, like a family, can, for a year or two, spend more than it earns, but a continuance of that habit means the poorhouse.

In the 1800's, Justice John Marshall said:

> That the power to tax involves the power to destroy is not to be denied.

Let us go way back into history, during the heyday of the Roman Empire.

The Roman statesman Cicero said:

> The budget should be balanced, the treasury should be refilled, the arrogance of officialdom should be tempered and controlled, and assistance to foreign lands should be reduced lest the state become bankrupt. The people should be forced to work and not depend on government for subsistence.

Finally, a statement from me that I hope will never be quoted when historians study the history of the former United States of America.

"We either balance the budget and limit taxes and spending now, or our society will go the way of the Roman Empire and other historical world powers."

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Chairman, the vote on a balanced budget amendment is critical because, as the Washington Post noted Tuesday, it "carries extraordinary long-term implications for governing and the balance of power in Washington." Even so, some Americans who may be watching this debate are probably confused as well as being disgusted, and they might have trouble understanding what is going on.

As they watch, amid the many sincere, serious proponents and opponents of a balanced budget amendment, some on both sides of this issue are hollering about "courage" and "hypocrisy," and "political games," and "partisan politics."

The American people are tired of the insider's game of us blaming each other or the White House as an excuse for not doing something about our budget deficits. The American people don't care that it's been over 20 years since a President sent Congress a balanced budget. Congress should have had the courage as guardian of the public purse to refuse to spend money the public didn't have. The President didn't have that courage; Congress didn't have that courage—now is not the time for finger pointing.

Furthermore, with all due respect to my colleagues, I am not impressed with calls for us to reject the balanced budget amendment in favor of some promised, future, phantom fiscal responsibility, under the present rules of the game by Congress. Those who are making that pitch have had their chance over the past decade. Now, it is time to do something different, something positive, something that might be effective.

Voting for the balanced budget amendment may indeed be an act of frustration, but it is the same kind of frustration that is out there in this country, sinking the President and Congress to the bottom of the polls, encouraging the Ross Perot movement, term limits, and anti-incumbency.

Sending the Stenholm balanced budget amendment to the States will move us outside the Washington Beltway, beyond Washington politicians and organized special interests, and it will include the American people in meaningful, timely participation in this critical debate about the future of our country.

Do not pretend that this vote will magically balance our national budget. However, I can guarantee you absolutely that, without forcing a broad, public debate out there in the real world about the nature of the deficit problem and the tough choices facing Americans, then this Congress will never have the requisite courage and this Congress will never, never deal with the real human needs challenging the United States of America.

Mr. KYL. Mr. Chairman, I yield myself 2 minutes to make a point in response to an argument that was made earlier by the distinguished gentleman from Wisconsin [Mr. OBEY]. He was referring to the chart of the gentleman from Wisconsin [Mr. MOODY] and made the point that there were really only two choices here, and that was either——

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. KYL. Oh, I am sorry if I misspoke. It was the gentleman from California [Mr. PANETTA], the other distinguished gentleman at the table.

Mr. Chairman, he made the point that there were only two choices here, raising taxes, or cutting spending, or both, and I would suggest that there is a third way that involves limiting spending. The third way is the Kyl-Allen proposal to limit Government spending. It has inherent in it the incentives for Congress to pass progrowth economic policies that will increase our gross national product because, as the economy would grow, revenues to the Treasury would grow, and of course, therefore, we will have more money to spend.

Let me just read one quotation. Citizens for a Sound Economy, for example, said and I am quoting, "The Kyl-Allen balanced budget amendment would provide strong incentives to implement progrowth policies," and that is one of the theories behind the proposal, to attack this problem by limiting Federal spending and, therefore, providing it to GNP and, therefore, providing the Congress with an incentive to pass progrowth policies.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I have heard the arguments before, and I think there probably is some merit to how we try to stimulate the economy, but the problem is that, when we talk about stimulus, we are largely talking about tax cuts or tax credit which, in fact, can impact on reduced revenues for the Treasury. In the short term they are going to add to the deficit. In the long term they might bring some money back in. But the problem is in the short term they can add to the deficit.

Mr. KYL. Reclaiming my time, Mr. Chairman, sometimes that is a very short term. As a matter of fact, at the same tax rates we can generate more revenues.

Let me quote Dr. James Buchanan, a Nobel laureate in economics. We are not talking now about just the average guy who is arguing here. This man knows his economics, and I am quoting now.

> Reducing Government as a share of GNP from its current level of 25 percent to, say, 20 percent would generate roughly a 2 percent increase in the rate of growth in GNP. And back-of-the-envelope arithmetic suggests that by the early 2000's, and forever beyond, the real value of the programs financed by Government would be larger than they would be under the regime that keeps Government's share at 25 percent.

That is with no change in tax revenues.

□ 2220

So the point I would like to make is that by keeping tax rates the same, we can have an increased share in the gross national product, increased revenues for the Federal Government to spend, and that is not changing the tax rates one bit.

Mr. PANETTA. Mr. Chairman, if the gentleman will yield further, the last time I heard that was from an economist called Laffer, it was called supply-side economics, it was 1991, and the result has been a $4 trillion debt.

Mr. KYL. Mr. Chairman, reclaiming my time, the result was the longest peacetime period of economic growth in the history of this country. That is what the result was.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I might add the result was an increase in Government revenue. Revenues went up. It was the tax rates that went down. But this idea that you cannot have growth-oriented policies without giving tax incentives which cost the Government revenue is ludicrous. What about increasing Government efficiency? Is that not one good goal that would help stimulate the economy? How about cost-saving reforms, for example, liability reform that the country has been crying for but we have been able to put off because we can just add to the deficit? What about antitrust reform? What about deregulation?

Mr. Chairman, these are things that actually increase productivity in the country and spur economic growth that are not tax incentives. Today we do not have to worry about those things.

Mr. PANETTA. Mr. Chairman, if the gentleman will yield, the gentleman is absolutely correct. We ought to do every one of those things that the gentleman is suggesting. The problem is we are talking about $600 billion in deficit reductions. It does not get you much.

Mr. ROHRABACHER. Mr. Chairman, reclaiming my time, part of the solution has to be increasing the productivity of our country, increasing the growth of our country. The only option in doing that is not just providing tax

incentives, but let us get to those hard reforms that are always tough, because when you are up against an interest group like the lawyers and being able to say no, I am sorry, we are going to pare away some of these laws because it is going to make our bills more competitive and thus bring in more revenue.

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from Fort Worth, TX, [Mr. GEREN].

Mr. GEREN of Texas. Mr. Chairman, I rise in strong support of the Stenholm balanced budget amendment, and I wish to add for the RECORD various pieces of correspondence regarding this subject, as follows:

AMERICAN TAX
REDUCTION MOVEMENT,
Los Angeles, CA, May 15, 1992.

Hon. CHARLES W. STENHOLM,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE: The quarter-million member American Tax Reduction Movement urges you to take immediate action to pass the Balanced Budget Amendment, S.J. Res. 18.

Our nation has been brought to the verge of economic ruin through fiscal mismanagement, at the core of which is decades of deficit spending. Deficit spending (massive borrowing) has reached such astronomic proportions that it is almost beyond human comprehension—long lines of mind numbing numbers.

What is easier to understand is that our failure to control government spending is destroying our country's economic competitiveness, fueling inflation and contributing to unstable money that precludes sound long term planning. The result of our massive borrowing is high taxes and the mortgaging of our children's future, and the future of generations of children yet unborn.

Is it any wonder that the people distrust Washington when our representatives accept an annual deficit that imposes virtual government servitude on American taxpayers? Is it any wonder that Congress is held in such a low esteem when its every effort to deal with the deficit has been an abject failure? Talking has not cured the problem. Nor has the Gramm-Rudman Act decreased government spending.

As a nation we can neither afford nor tolerate further delay in reforming government's profligate spending practices. The only way to avert catastrophe is to bring spending into line with income by using the force of the Constitution.

Taxpayers demand a Balanced Budget Amendment.

Sincerely,

JOHN SUTTIE,
President.

NATIONAL ASSOCIATION OF
WHOLESALER-DISTRIBUTORS,
Washington, DC, June 5, 1992.

Dear——: You will very soon be called upon to vote on one of the most important pieces of legislation ever to come before the House of Representatives—the Balanced Budget Amendment. On behalf of the over 40,000 companies represented by the National Association of Wholesaler-Distributors (NAW), we strongly urge you to support this legislation.

NAW has been an active supporter of a Constitutional Amendment for a balanced federal budget for almost a decade. Our members, their employees and families have all felt the effects of the ever-growing federal deficit, estimated to reach $400 billion this year. Unless action is taken now, federal debt and deficits will continue to cripple our economy and mortgage our children's future.

NAW favors the version of the amendment to be offered by Representatives Barton and Tauzin, which will require a supermajority vote to raise taxes as a means of balancing the budget. Our members believe that after decades of uncontrolled federal spending, Congress should be forced to rely more heavily on spending restraints to balance the budget, rather than further burdening the American taxpayer.

While NAW strongly favors the Barton/Tauzin amendment, should that fail to be adopted, we strongly urge you to support final passage of H.J. Res. 290, as introduced by Representatives Stenholm, Smith, Carper and Snowe as an effective Constitutional restraint on deficit spending.

Again, NAW strongly urges you, in the interest of fiscal responsibility for our country and for the sake of our children's future, to support the Balanced Budget Amendment.

Sincerely,

DIRK VAN DONGEN,
President.

ALAN M. KRANOWITZ,
Senior Vice President-Government Relations.

MARY T. TAVENNER,
Senior Director-Government Relations.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, June 1, 1992.

Hon. CHARLES W. STENHOLM,
House of Representatives, Washington, DC.

DEAR MR. STENHOLM: The National Association of Manufacturers believes reduction of the federal deficit should be our nation's top priority. Accordingly, we have been longstanding supporters of a constitutional amendment requiring a balanced federal budget. We support current legislative efforts to accomplish this, and strongly urge you to vote for the adoption of such a provision this year, without further delay.

While we believe adoption of the balanced budget amendment should occur now, we wish to raise a few concerns. First, we believe the version having the greatest support (H.J. Res. 290) could be improved greatly by adding a stronger limitation on tax increases, such as that found in H.J. Res. 248, requiring a supermajority vote to raise taxes. Lack of such a limitation, however, should not be an excuse for failing to adopt a balanced budget amendment this year.

Second, even though a balanced budget amendment would not likely become effective until fiscal year 1997 or later, it is essential that Congress begin to plan now for a phased reduction in the deficit to permit an orderly transition that does not disrupt the nation's economic growth.

Again, we urge you to act now to pass a constitutional balanced budget amendment, and look forward to working with you thereafter to implement a rational plan of phased deficit reduction.

Sincerely,

JERRY J. JASINOWSKI,
President.

AMERICAN FARM
BUREAU FEDERATION,
Washington, DC, April 16, 1992.

Hon. CHARLES W. STENHOLM,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE STENHOLM: The drive to enact a constitutional amendment to balance the federal budget is one of Farm Bureau's longstanding legislative efforts. Farm Bureau, which represents nearly four million member families throughout 50 states and Puerto Rico, supports a constitutional amendment to require the federal government to operate on a balanced budget each year. A balanced federal budget should be accomplished through spending restraint rather than new or increased taxes.

Two balanced budget resolutions have been introduced in the House of Representatives which are supported by Farm Bureau. These resolutions are H.J. Res. 290, introduced by Representatives Stenholm (D-TX), Bob Smith (R-OR), Carper (D-DE), Snowe (R-VT), Moody (D-WI) and Barton (R-TX), and H.J. Res. 248 introduced by Representatives Tauzin (D-LA) and Barton (R-TX). H.J. Res. 290 is a balanced budget amendment and H.J. Res. 248 is a balanced budget amendment with a tax limitation and a debt limit.

Farm Bureau has urged the House Judiciary Committee to schedule hearings on the balanced budget amendment and to report H.J. Res. 290 and H.J. Res. 248 from the Judiciary Committee. Both resolutions have substantial numbers of cosponsors which indicate widespread support in the House. H.J. Res. 290 has 267 cosponsors, and H.J. Res. 248 has 126 cosponsors.

Until there is a constitutional amendment to require a balanced budget through spending restraint, the federal deficit problem will not be solved. Farm Bureau asks you to cosponsor and vote for H.J. Res. 290 and H.R. Res. 248 when these measures come to the House floor, hopefully this summer.

Sincerely,

DEAN R. KLECKNER,
President.

AMERICAN FARM
BUREAU FEDERATION,
Washington, DC, May 22, 1992.

Hon. CHARLES W. STENHOLM,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE STENHOLM: Farm Bureau supports a constitutional amendment to balance the federal budget. Our members believe that a balanced budget should be accomplished through spending restraint rather than tax increases.

We have supported and continue to support H.J. Res. 290 (Representative Stenholm) and H.J. Res. 248 (Representatives Barton and Tauzin) in the House and S.J. Res. 18 (Senator Simon) and S.J. Res. 182 (Senator Kasten) in the Senate. We believe that all of these measures have stronger tax limitation than current law, particularly H.J. Res. 248 and S.J. Res. 182. We support measures that will bring accountability in federal spending.

Aside from Farm Bureau's support for a balanced budget, however, we are concerned by discussion of attempts to link a specific deficit reduction package with the vote on the balanced budget amendment. We strongly believe that a vote should occur on the balanced budget amendment without any tandem vote on deficit reduction. We are concerned that such linkage would lead to a tax increase that would stifle badly needed economic growth.

We urge you to vote against any deficit reduction package based on a ratio of spending reductions to tax increases. Beginning with the Tax Equity and Fiscal Responsibility Act of 1982, there has been promotion of a spending cut/tax increase ratio. Congressional history on this point has consistently reflected that promised spending reductions never materialized while tax increases became a fact of life.

We urge you to reject tax increases to spending reduction ratio plans if placed before the Congress. Farm Bureau asks that Congress and the administration reduce all federal spending, including entitlements, by an across-the-board cut or a spending freeze. Equity is needed in spending restraint. All areas of federal spending must participate in deficit reduction.

Sincerely,

DEAN R. KLECKNER,
President.

AMERICAN ASSOCIATION OF BOOMERS,
Irving, TX, June 4, 1992.

An Open Letter to Members of the House of Representatives:

The American Association of Boomers' 1992 membership survey indicates that a Balanced Budget Amendment is supported by more than 80 percent of our members. Our membership is diverse and represents accurately the broad spectrum of the "baby boom" generation's views, interests and concerns.

I urge you to support H.J. Res. 290 as introduced by Representatives Stenholm, Smith, Carper, and Snowe. Your support will be viewed by boomers as a ray of hope that our government can and will address the tough choices that lay ahead.

I must warn you that any attempt to pass a "watered down" version or one that exempts "sacred cows" will be viewed by boomers as final proof the current system is nothing more than a charade of special interests.

I am confident that your sense of patriotic duty will override the emotional pleas of your constituents who have been shamefully manipulated by special interest half-truths and innuendoes.

Sincerely,

KAREN MEREDITH,
Executive Director.

NATIONAL TAXPAYERS UNION,
Washington, DC, May 27, 1992.

DEAR REPRESENTATIVE: The House will soon consider H.J. Res. 290, the proposed Balanced Budget Amendment, offered by Representatives Stenholm, Smith, Carper and Snowe, cosponsored by 278 Members of the House, and supported by 32 of the required 34 state applications for a limited constitutional convention on this issue. Adoption of this critically important amendment is the highest priority of the 200,000 member National Taxpayers Union.

The chronic and growing federal deficit is the most pressing problem facing our nation. Polls indicate overwhelming public support for solving this problem through the adoption of a balanced-budget amendment to the Constitution.

Our current Constitution was adopted precisely because of fiscal collapse under the Articles of Confederation. As historian Sidney Homer wrote in "A History of Interest Rates," "The government of the Confederation could not even meet its own small expenses. Interest on its domestic and foreign debt went largely unpaid. * * * The finances of the nation were chaotic * * * [and] Government credit sank so low that * * * [its bonds] were worth less than fifteen cents on the dollar."

I quote this because many people believe that the credit of the federal government can be taken for granted. The evidence of our own history, and that of other nations, proves otherwise.

Nobel prize winning economist James M. Buchanan wrote that even though a balanced budget requirement "has never been a part of the written Constitution, [during most of our nation's history] budget-balance was a part of our effective fiscal constitution. * * * The unwritten rule or precept for budget-balance acted as a powerful inhibiting force on the natural proclivities of politicians to generate deficits * * *"

If we are to preserve our nation's good credit, and government's ability to provide for the common defense and promote the general welfare, we must find a substitute for this unwritten rule that had protected our country from fiscal irresponsibility. Prof. Buchanan concludes that a balanced budget amendment should be adopted as part of the Constitution. * * *

The rule governing Floor debate on H.J. Res. 290 will include debate and votes on several substitute amendments. We will strongly oppose any substitute which would weaken the provisions of H.J. Res. 290. H.J. Res. 290 is the leading budget proposal in the House, and has the strongest prospects for House approval. The most important action the House can take is to pass this bill.

In conclusion, I quote what Thomas Jefferson said about deficit spending: "The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves."

If Mr. Jefferson were among you, you know how he would vote on this amendment.

Sincerely,

JAMES D. DAVIDSON,
Chairman.

CHILD CARE AMERICA,
Newport News, VA, June 8, 1992.

Hon. CHARLES STENHOLM,
Longworth Office Building, Washington, DC.

DEAR CONGRESSMAN STENHOLM: The Board of Directors and membership of CHILD CARE AMERICA, the owners and administrators of licensed, private child care centers in eight states, strongly endorses your Balanced Budget Amendment.

The nation needs strong fiscal constraints, and statutes simply have not proven adequate to the task.

We commend you for your leadership.

Cordially,

Dr. WILLIAM J. TOBIN,
Director of Government Relations.

THE SENIORS COALITION,
Washington, DC, June 8, 1992.

DEAR FRIEND: America's senior citizens have had enough! They want Congress and the Administration to put aside their posturing and put our nation's financial house in order.

The main argument we hear from Congress against a Balanced Budget Amendment is that the President and Congress should do it without an amendment to the Constitution.

Well, Congress and a number of Presidents have had many years to pass a balanced budget and have not delivered. It's time to stop asking, and to make it law. Perhaps then government will do what needs to be done. It's a sad commentary on our government, but it will be a sadder, and more expensive story if a Balanced Budget Amendment is not passed now.

Some people claim that a Balanced Budget Amendment would somehow hurt senior citizens. Not necessarily true. Our enclosed issue paper on the subject exposes that argument for what it is, a desperate argument to do nothing but scare senior citizens.

Our members write us so often, asking why Congress and the administration can't stop overspending, that we have made the Balanced Budget Amendment the cover story of the June/July issue of The Senior Class (also enclosed).

Most of our members lived through the Great Depression and know what it is like to have to spend frugally. They also know how far a recession can go when Congress ignores the problem.

It's time to stop talking and start doing. Balance the budget, cut government waste, and get our economy back on track. It's possible to do, it just takes willpower and common sense.

Sincerely,

JAKE HANSEN,
Executive Director.

Mr. KYL. Mr. Chairman, I ask unanimous consent that the gentleman from Virginia [Mr. ALLEN] have the responsibility of yielding the remaining time on this side.

The CHAIRMAN pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Virginia [Mr. ALLEN] will be the designee of the gentleman from New York [Mr. FISH].

Mr. STENHOLM. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. PANETTA], the distinguished chairman of the Committee on the Budget

Mr. PANETTA. Mr. Chairman, let me just in brief summary make a few points here, because this has been an extensive debate. But I also think it has been a good debate in the sense that there are many areas of agreements as Members have gone to the floor and discussed the issue, the concern about the deficit and the need to try to take some action here.

First of all, I really do think the goal is the same. I think many Members share a common goal here, which is to reduce this huge deficit that confronts the country and try to move toward a balanced budget. I think that is a goal that all Members share in.

The question then becomes how do we get there?

I think there is also a consensus in how we get there. There are a few Members here who think that it can happen through growth, or it can happen through some magic answers, but I think most Members know that tough choices have to be made, tough choices on how you reduce spending, tough choices on how you raise revenues, a combination of both. I think all Members know that. We would have balanced the budget a long time ago had there been a will to make those kinds of tough choices.

So we know how to get there. We know what has to be done to move in that right direction.

What is missing then? What is missing? We know the goal, that we want to

get there. We know that there are some tough choices involved. Why do we not get there?

Actually, I think there is probably agreement on that as well, which is there is not leadership, leadership from the President, leadership from the Congress, to address these issues.

So the fundamental issue, and this is probably what divides the Members when it comes to the question of a constitutional amendment, the fundamental issue is will passing a constitutional amendment provide the leadership that is missing now? That really is the key question that all of the Members have to ask and that the American people need to look at. Do we really need a constitutional amendment to get the right kind of leadership from the President and the Congress in order to deal with the issues I just discussed?

I do not think we do. I think, very frankly, there is not a Member here that does not have the will to confront these choices. Certainly, you do not go back to your constituents and say that you are cowards when it comes to making tough choices. You may say others are, but the fact is all of us go back to our constituents and say we are willing to make the tough choices.

We do not need a constitutional amendment to really make the decisions that have to be made. I think we proved that when we did the 1990 budget agreement.

So I guess my view is that I trust in the system and I trust in the Constitution that is there, and, frankly, I trust in the ability of this House and the President to assert the kind of leadership that is necessary on this issue, if the will is there. If the will is there.

I think the risks involved in having a constitutional amendment I guess are what concern me, because we are talking about a three-fifths requirement. It does involve then the ability to put a straitjacket on this institution when we have to deal with some very tough issues.

It also involves turning some very sensitive issues over to the courts, because the courts do have to enforce this issue. It was interesting, I was on a talk show this evening, and somebody called in and said, "What concerns me about this whole issue is that what you could be doing is handing a Federal court judge the decision as to whether or not we should raise taxes or cut spending." And a judge is the last person that ought to be making that decision, someone who is unelected, who is there for life. That is essentially taxation without representation.

But those are the kind of dangers that are involved here.

I would indicate that I have asked the gentleman from Texas [Mr. STENHOLM] several important questions related to interpretation of the amendment, because I think it is very essential that we provide an adequate record here for interpreting issues like what are revenues, what are estimates, what is national security, what is the standing to sue, and other main questions that have to be provided here so there is some guidance in the event that the amendment does pass.

Mr. Chairman, I would state to the gentleman from Texas [Mr. STENHOLM] that I have provided him a set of questions, and my understanding is that the gentleman from Texas [Mr. STENHOLM] will respond to those, and we will include those responses in the RECORD this evening.

Mr. Chairman, I rise in opposition to House Joint Resolution 290, the constitutional amendment to require a balanced Federal budget.

It is a rare occasion when this Nation decides to amend our Constitution. The Bill of Rights was adopted over 200 years ago. In the last two centuries, the Constitution has been amended only 17 times.

Nearly every one of those amendments guarantees fundamental rights to our citizens, or makes a fundamental change in the structure of government, such as how we elect or appoint our top Government officials.

There are virtually no constitutional amendments that address a specific policy issue. The best example is the prohibition amendment. That did little but reduce public respect for the law and the Constitution, and another amendment was adopted to repeal it.

The only other time an economic issue was dealt with, it was specifically to authorize the Congress and the President to do something they had not been permitted to do before—impose an income tax. It was needed because such authority had not existed before.

Today, we are considering a constitutional amendment that deals with a policy issue that also is an economic issue. But unlike the 16th amendment, it does not authorize Congress and the President to do something that we cannot now do. It tells us to do something that we not only are already empowered to do but in fact have done a number of times in the past—balance the budget.

The Constitution is a place for the Nation to state clear principles, not to seek to force Congress and the President to settle policy disputes. How many critical policy issues have gone unaddressed by Presidents and Congresses over the years? Today, we have a health care system that is in crisis; we have high unemployment and a dragging economy; we have cities that are becoming urban wastelands, plagued by homelessness, AIDS, poverty, and crime. Should we pass a constitutional amendment that requires the Congress and the President to solve the health care crisis? Should we pass a constitutional amendment that requires us to solve the problems of the cities? Of course not. Because Congress and the President already have the tools to address those issues, if they so choose. And the American people have in their hands the tools to force us to address those problems. It's called the vote, and they get to exercise it every 2 years.

The same is true for the budget deficit. We have the necessary tools in hand to address the problem, and the American people have the ability to force us to do it. The Constitution is not the problem here. The problem here is a failure of leadership, from the President and from the Congress. This amendment is little more than a crutch for that failed leadership.

There are some in the Congress, as well as the President, who like to bat the Constitution around like a political ping-pong ball. Whack, here's an amendment to ban abortion. Whack, there's an amendment to ban desecration of the flag. Whack, here's an amendment to permit prayer in the schools. Whack, there's an amendment to require a balanced budget.

They call themselves conservatives, but anyone who is willing to amend the Constitution at the drop of a hat, or at the drop of a difficult political issue, is no conservative. That is someone who lacks respect for our most fundamental governing document.

I do not disagree with the goal of a balanced budget; I support it. I have devoted much of my time as a Member and then as chairman of the Committee on the Budget to reducing deficits in this country. The worst mistake this Congress ever made was to go along with the Reagan policies of the 1980's, which caused deficits to soar and caused the national debt to triple in the span of less than a decade. Deficits and the debt steal the resources this Nation needs to restore its savings base and establish a foundation for future economic growth. It is truly a crisis.

But I am not sure I understand the purpose of this amendment. It tells us that we are supposed to balance the budget, except that it also tells us that we can override the requirement with a three-fifths vote. So it's important enough to put in the Constitution but not important enough to make an absolute requirement.

Moreover, the chief sponsor of the amendment has stated that the intent of the amendment "is not to reach a zero balance." One must assume, then, that the purpose is to reduce the deficit and get near a balanced budget. I think most of us agree with that notion, and some are even willing to do it. What we often disagree on is how to do it.

That is the fundamental problem. The Constitution is not the problem. The problem is our inability to agree on a solution.

It seems to me that what we should be doing is not amending the Constitu-

tion but discussing those policy choices.

For several weeks now, I have been suggesting that a vote on a constitutional amendment be linked to a vote on an enforcement mechanism as well as the policy choices—the actual spending cuts and tax increases—that are needed to balance the budget.

My greatest disappointment in this debate has been the reaction of the supporters of the constitutional amendment to my proposal. These are the Members who, like the President, think a balanced budget is so important it should be enshrined in the Constitution. In theory, these are the Members of Congress who, along with the President, are most eager to balance the budget. In theory, these are the Members of Congress who, along with the President, want to face up to the tough choices.

And yet, in reality, it is these Members of Congress who, along with the President, have fought the hardest to prevent a discussion of those issues as part of this debate. They have sought, as one witness who supports an amendment told our committee, to maintain a veil of ignorance to conceal from the American people the spending cuts and tax increases that will need to be imposed to balance the budget.

They have largely succeeded. They have succeeded by ensuring that the procedure does not permit such a debate. And they have succeeded by obfuscating the issue in their statements leading up to this debate.

The worst offenders have been the President and OMB Director Darman. But there have been many in Congress who have been nearly as deceptive, people who in the past have been far more willing to be honest with the American people.

The administration and others tell us balancing the budget will be fairly easy. All we need to do is, first, assume greater revenues from economic growth beyond current projections and, second, slow down the growth of spending. The two things we certainly won't have to do, they say, are to cut Social Security benefits or raise taxes.

A balanced budget without any pain. It sounds great. But if it's so easy, why haven't we done it already?

My colleagues all know the answer. The answer is that it is not easy. Balancing the budget requires painful spending cuts and tax increases. Anyone suggesting an easy solution either doesn't know the truth, or doesn't want the American people to know.

The reality is, there are no simple or easy answers. Let's talk about economic growth. We all want to increase economic growth, and we all hope growth will be stronger than current estimates, which have been figured into current deficit projects. But wishing will not make it so, and neither will the administration's self-described growth package.

Their idea is that tax cuts will lead to magical increases in economic growth, producing enough revenues to substantially reduce the deficit, or even balance the budget. Where have I heard that before? I heard it in 1981. Congress bought that line then, and we have a $4 trillion debt to show for it.

In testimony just last week before the Budget Committee, CBO Director Robert Reischauer said the impact on economic growth of any so-called growth measures, such as those proposed by the President, would be minuscule. I agree that some targeted growth measures might be desirable. But let's not pretend they can make a significant contribution to balancing the budget.

The next solution is to slow down or freeze the growth of Federal spending. Freezing spending for 5 years would probably do the job, but let's not pretend it's painless. Let's take an example that everybody understands—Social Security. Social Security spending increases about 6 percent every year because of cost-of-living adjustments [COLA's], which help beneficiaries keep up with inflation, and because of the ever-increasing number of people receiving benefits, as more people retire, with ever-higher benefits, than those who die each year. If we froze Social Security spending for 5 years, what would happen? COLA's would disappear, so people's benefits in 1997 would be worth about 80 percent of what they are now, due to inflation. And accommodating all those new retirees would require that everybody's benefits be reduced even further.

Medicare costs are rising at some 12 percent a year because of new recipients and, primarily, rapidly rising health care costs. Freezing spending means not compensating doctors and hospitals for their rising costs, not reimbursing for certain services, increasing the amount that beneficiaries pay in premiums, and increasing beneficiary copayments for medical services.

It's the same for most other programs. If you don't keep up with cost increases, that means a cut, potentially very severe, in services.

Now I am not saying that we cannot slow down spending growth. We can, and we must. But freezing or sharply limiting spending will mean sacrifices, often painful sacrifices. Let's not pretend that it won't. Let's not hide the truth from the American people.

CBO projects a $236 billion deficit in 1997. Clearly, we have to start attacking the deficit now, not later, if we are going to balance it by 1997. CBO, assuming normal economic growth, says we need to reduce deficits over the next 5 years by a cumulative total of nearly $600 billion.

Where will it come from? As Willie Sutton said, you have to go where the money is. Today, 14 percent of the budget is interest that must be paid on the debt. That cannot be cut. Another 5 percent is the cost of the savings and loan bailout, which must be maintained to guarantee insured deposits. The other 81 percent comprises 15 percent for domestic discretionary spending—education, space, transportation, housing, law enforcement, et cetera; 21 percent for defense; and a whopping 45 percent for entitlement programs. Half of the entitlement are retirement and disability programs—primarily Social Security, and Federal civilian and military retirement. A quarter are health programs—Medicare, Medicaid. The rest are farm price supports, veterans' programs, and others.

The Budget Committee staff has produced three illustrative plans for balancing the budget by 1997. They would require substantial cuts in Medicare, Social Security, through limits on COLA's or taxation of benefits, defense to well below the level the President supports, veterans' and farm programs, and foreign aid, elimination of the space station and the superconducting super collider, and numerous other domestic entitlement and discretionary spending reductions.

Two of the three plans would ease spending cuts somewhat by including tax increases, in the form of personal and corporate rate increases, or a higher gasoline tax, or limitations on itemized deductions, or a national sales or VAT tax. Regardless, the reality is that Medicare, Social Security, defense, and other big spending programs will have to be cut.

If we pass this constitutional amendment, I intend to begin work in my committee at the earliest possible date on enforcement of that amendment. And if anyone believes they can vote for this amendment and then avoid these tough choices, they are kidding themselves and the American people.

Mr. Chairman, the Budget Committee has, over the past several weeks, conducted a series of hearings on proposals to amend the Constitution to require a balanced budget. Those hearings have addressed a number of critical issues which I would like to discuss at this point in the RECORD.

LEGAL AND CONSTITUTIONAL ISSUES

Constitutional experts have expressed concerns about the proposed constitutional amendment at hearings before both the House and Senate Budget Committees. In addition, Judge Robert Bork has expressed his views on a similar amendment in a letter to the Speaker dated July 10, 1990.

Although the views expressed at these hearings on the issues presented by such an amendment vary, the testimony is consistent with Judge Bork's view, as expressed in his letter, that "[d]espite the urgency of the problem the proposed constitutional amendment seeks to address, * * * the cure

seems likely to be ineffective or damaging, and perhaps both."

He said that the idea of enforcing the amendment through lawsuits in the Federal courts "is either a vain hope or a dismal prospect."

In testimony before the House Budget Committee, Alan Morrison, director of the Public Citizen Litigation Group, urged that the text of a balanced budget amendment state clearly whether compliance with the amendment would be reviewable in the courts, but he noted that even if the amendment addressed the role of the courts directly, there was no satisfactory solution.

Allowing no review would make the "amendment into the budgeting equivalent of the War Powers Resolution," in Morrison's opinion, meaning that the courts, in practice, would exert little real authority over the issue. Allowing some review would mean that there would be "litigation over whether a given claim is litigable, a debate which profits no one save the lawyers who are being paid to litigate it." Finally, in evaluating the full review option, Morrison cited numerous possible bases for litigation covering every section of House Joint Resolution 290, except the effective date section, and every aspect of the budgetmaking process.

On the other hand, if the amendment were silent as to the role of the courts, Morrison concluded that:

[I]n the absence of a clear statement, it is likely that the only parties who could sue would be those seeking greater spending or reduced taxes, whereas actions to assure lesser spending will be thrown out on standing grounds. The end result will be that this litigation bias will further increase the deficit, precisely the opposite of what the proponents of the amendment are seeking.

In testimony before the Senate Budget Committee on a number of proposed constitutional amendments, including House Joint Resolution 290, Professor Laurence Tribe of the Harvard Law School took a more expansive view as to the persons who could sue to enforce the amendment. He argued that even if an amendment were silent on the issue of judicial review, taxpayers might have standing to sue.

[A] Federal taxpayer might be able to bring an action charging that what both branches agreed was a balanced budget was not in fact actually balanced, or that, in some other respect, Congress and the President had failed to adhere to the balanced budget amendment.

Tribe said.

At this point, a court would have little choice but to develop, as a matter of constitutional law, appropriate definitions of "outlays" and "receipts," and to hold a trial to determine whether the taxpayer's complaint had any basis in fact. If the court agreed with the plaintiff, it would likely enter a decree governing the federal budget and perhaps giving the court a continuing oversight role. Although the court would probably afford the President and Congress an initial opportunity to raise taxes or cut spending on their own, the court would be entirely justified in going further, especially if the political branches could come to no agreement between themselves. At that point, the court might issue an injunction directing the government to raise taxes and it could even begin the process of selecting federal programs for termination. Individual executive and legislative budget decisions might have to receive court approval before they could be implemented, much as legislative reapportionments in many States have to receive preclearance from federal courts or the Attorney General under the Voting Rights Act. Even those who do not oppose the idea of federal court's supervising a formerly segregated local school district would surely find it nightmarish for a court—even the Supreme Court of the United States—to assume ultimate responsibility for managing the federal budget.

In testimony the same day before the Senate Budget Committee, Prof. Walter Dellinger of the Duke Law School expressed many of the same concerns as Professor Tribe. Like Professor Tribe, he was also concerned about the possibility that a balanced budget constitutional amendment could be interpreted to give the President impoundment authority, arguing that if a President decided to cut spending for pensions, for example, in order to fulfill an amendment's requirement that outlays not exceed receipts, "[i]t would take a bold court to overrule this executive interpretation of the constitutional command." Professor Dellinger also argued that "[n]either the political question doctrine nor limitations on standing would appear to preclude litigation that would ensnare the judiciary in the bramble bush of budgetary politics."

He concluded his testimony with this observation:

It would be wonderful if we could simply declare by constitutional amendment that from this day forward the air would be clean, the streets free of drugs, and the budget forever in balance. But merely saying those things in the Constitution does not make them happen. Proposing a balanced budget amendment would not be a step toward a balanced budget, but a diversion from that goal. Sending this amendment to the states for ratification would thus disserve both the Constitution and the goal of fiscal responsibility.

Clearly, there is room for disagreement as to exactly how the courts would interpret a balanced budget constitutional amendment. It might be that only those whose benefits were cut or whose taxes were raised could sue, resulting in litigation that tended to increase, rather than decrease, the deficit. On the other hand, the courts might agree to allow taxpayer standing and, as Judge Bork speculated, "[t]he confusion, not to mention the burden on the court system, would be enormous."

But the critical point is that, whatever the outcome, none of these results would be good for Congress, the President, the courts or the deficit.

Beyond the issue of who has standing to sue in the Federal courts is how the courts would enforce the constitutional amendment. An amendment raises the prospect of unelected Federal judges making economic policy decisions that our Founding Fathers clearly intended to be made by a Congress and a President who periodically had to go before the voters to be reelected. Do we want judges deciding what taxes to raise and what programs to cut? Is that what the American people want? I think not. What the American people want is for their President and elected Representatives to exercise leadership.

SUPERMAJORITY REQUIREMENT—RECIPE FOR GRIDLOCK, UNFAIRNESS AND SHORTSIGHTED FISCAL POLICIES

The balanced budget constitutional amendment would allow an unbalanced budget only when supported by three-fifths of the House and Senate. This requirement would:

Provide another obstacle to a system already close to gridlock;

Place an unfair obstacle in the path of attempts to assist people hurt by natural disasters or recession; and

Make it more difficult for the Federal government to make long-term investments in economic growth.

A fundamental tenet in a democratic system of government is that a majority vote determines the outcome of political issues, including going to war, the most solemn issue any country can consider. The Founding Fathers reserved the supermajority vote for only a handful of critical matters—that is, amendments to the Constitution, overrides of a Presidential veto. It clearly was not meant to be applied to ordinary policy questions, even those of extraordinary importance. To elevate a vote on whether a budget should be balanced or not, a decision which essentially concerns economic policy, into supermajority status is inappropriate and unwise.

A system already subject to gridlock would be faced under a balanced budget amendment with a supermajority requirement to unbalance the budget and to increase the public debt. This change could make our political system even less responsive and chaotic than it is today. Bills to increase the debt limit are often passed, after great struggle, by one or two votes, even in the face of a total Government shutdown. If a majority of members of the House and Senate refuse to cut spending or raise taxes to balance the budget then the next step would be to raise the public debt. Securing three-fifths of the House and Senate to take that step could be impossible, based on our past experiences with such votes, thus frustrating the will of the majority.

A supermajority requirement would also threaten Congress's ability to help people who have suffered due to a recession or natural disasters. For example, additional unemployment benefits during times of recession or loans to repair homes damaged by hurricanes or

floods could be held hostage by a minority of members of the House or Senate. Running a deficit in times of recession or to assist after a natural disaster is usually difficult to avoid and occasionally desirable. Yet with the balanced budget amendment, a minority could derail needed assistance or stimulus.

And it is not just spending which would have to overcome this obstacle. The enterprise zone tax break proposal currently being considered to help the inner cities could also be threatened by a minority of members. When a minority can block basic governmental assistance to people in need, it sets the stage for tremendous unfairness and dislocation in the political system.

There are also times when the Federal Government should move into a deficit situation in the short-term to make long term investments to spur economic growth. American corporations borrow money to build factories and American families borrow for homes and for college education expenses. These investments are critical to a better future. The balanced budget amendment would severely constrain the Nation's ability to build a better future for our people. The deck would be stacked against efforts to borrow funds to invest in roads, ports, education or research and development—those areas which constitute sound investments for spurring future economic growth. Most States with balanced budget requirements are allowed to borrow funds to provide for capital investments. This approach would be denied to the Federal Government unless a supermajority agreed. Indeed, one can envision what kind of unnecessary borrowing would be needed to provide incentives to get individual members of the House and Senate to join a supermajority in support of necessary borrowing.

EVASION OF A CONSTITUTIONAL BALANCED BUDGET AMENDMENT

Promising a balanced budget is one thing, forcing the system to achieve a balanced budget where there is no will or political guts is another. If we do not have the guts to achieve a real balanced budget the political system will eventually invent methods to evade a constitutional amendment. The following are those we can identify today, and there are sure to be other innovative techniques developed in the future:

Nondebt promissory notes.—Shifting costs into the future by making Government purchases with nondebt promissory notes, the Federal Government could disguise the real cost of a program in the fiscal year for which a balanced budget was required.

Expand loan guarantees.—An increase in the use of loan guarantees and the repeal of the current credit scorekeeping practices adopted in the 1990 budget agreement would allow significant policy initiatives with only small expenditures, or perhaps none, being displayed during the fiscal year in which a balanced budget is required.

Asset sales.—Asset sales provide a one-time influx of receipts but provide no long-term deficit reduction. Popular in the 1980's, asset sales have become completely discredited as a form of deficit reduction. Look for their return if the balanced budget amendment becomes part of the U.S. Constitution.

Timing shifts.—Budget year payments are pushed into the previous or future fiscal years, providing a meaningless, quick-fix form of deficit reduction.

Quasi-Government entities.—Additional Government-sponsored enterprises could be created. Current examples include Fannie Mae and Sallie Mae. Governmental policies are carried out by these agencies, but they are not considered to be legal Government entities. Their activities would not be covered by a balanced budget amendment, so look for the creation of GSE's much more dependent on the Government than Fannie Mae or Sallie Mae.

Regulation.—Perhaps Judge Bork best described this method of evading a balanced budget constitutional amendment:

> Government need spend nothing on a program if it can find groups in the private sector that can be made to spend their own funds. Much of the heavy expenditure of funds to give us clean air or occupational safety, for example, does not appear in any governmental budget and requires neither taxing nor governmental spending. Industry is simply required to use its own funds. That technique could be used with respect to a variety of programs such as health care. The effect of diverting society's resources to governmental purposes would be the same as an increase in taxation, except it would be less equitable because the burden would be borne by particular segments of society rather than by all subject to taxation. (Letter to Speaker Thomas S. Foley, July 10, 1990)

Shift costs to States.—Finally, current Government efforts could simply be shifted to the States to free up room for additional spending at the Federal level.

Again, a balanced budget amendment in the Constitution means nothing if the political will is not there for tough spending cuts or tax increases. If we lack the necessary political will, pressure will simply build to use various methods of evading the constitutional requirement. All of these methods will at best be less efficient than traditional spending or revenue policies. At worst they will constitute wasteful gimmicks which will undermine and embarrass the political system and exacerbate economic inequities.

ECONOMIC ISSUES

A balanced budget amendment would destabilize the economy, making recessions more frequent and more severe. It would also create incentives to cut those Federal programs that are most important for long-term economic growth.

Economists have long argued that a rigid requirement to balance the budget every year would unbalance the economy. An exemption for times of recession is no more of an answer to this problem than is a device to shut the barn door after the horse has bolted.

Economists are the first to acknowledge that they have a poor record of forecasting turning points in the economy. For example, the recent recession began in July 1990; but the President's budget submission of the following February did not even use the word recession. The President's Council of Economic Advisers gave itself high marks for candor when it acknowledged the recession at that same time, 7 months after the recession began.

The budget is an automatic stabilizer for the economy because it helps to head off recessions and inflationary booms without any discretionary policy action. Weakness in the economy, with increasing unemployment and declining incomes, sets off its own reductions in income tax collections and increases in unemployment benefits. Likewise, excessive demand pressure is damped by increasing income tax collections and declining benefit payments. This automatic stabilizer in the modern budget is part of the reason why the post-World War II economy has been far more stable than in earlier times—when depressions and financial panics happened almost every decade.

The balanced budget amendment would weaken the automatic stabilizers in the budget. When the economy begins to soften, with income tax collections falling and benefit payments increasing, the balanced budget amendment would require that we raise taxes or cut spending to close the deficit gap. If past patterns—including the most recent recession—are any guide, it will be months later before we understand that the economy was headed toward recession, and we made things worse. To expect otherwise, to believe that the passage of a balanced budget amendment will somehow make the Congress of the United States an economic forecasting team of unprecedented prescience and precision, is to strain credulity, to say the least.

There is a risk on the other side of the business cycle as well. When the economy grows too rapidly and risks inflation, the budget pushes toward surplus, because tax revenues rise and benefit payments fall. If we accept a rule that the budget should always be balanced, we might welcome that move toward surplus as a signal that we have more money to spend. If we do so, we will aggravate the economy's move toward inflation, the mirror image of the likely aggravation of the economy's move toward recession.

Both of these risks could be avoided if the Congress had perfect economic foresight. Again, it does not, and it will not. The benefit of the current budget

law is that the automatic stabilizers are free to act, without the intervention of the Congress or any other authority, to keep the economy on an even path. The balanced budget amendment will disrupt the economy's gyrocompass, and thereby greatly increase the risk of discretionary policy errors.

The balanced budget amendment will also increase the risk of unwise decisions regarding individual Federal programs. If we were required to balance the Federal budget immediately, the required spending cuts and tax increases would be so large that they would hit the economy with a force of at least four times that of the 1973–74 oil shock, which drove the economy into a serious recession. Therefore, we must move the budget into balance gradually, but we must begin immediately; the longer we wait, the more our debt builds up, and the more painful the process becomes.

Similarly, if we were required to balance the Federal budget immediately, our menu of policy choices would be short. Much of spending would be off limits for cuts, because we would have contractual commitments for long-term purchases—like military hardware—and because we could not in conscience cut many other programs on such short notice. As a result, the likely cuts would primarily fall as they did in the 1980's: on infrastructure and human investment programs that are essential to economic growth. With a longer planning horizon, hardware purchases could be cut off at the early stages, and program beneficiaries could have fair warning; and so the list of potential spending cuts would be much longer.

Right now, the administration is demonstrating the risks of a balanced budget amendment to long-term economic stability and to Federal programs important to economic growth. The President says that he can balance the budget with no pain. All he needs is more rapid economic growth, and a minimalist cap on entitlement spending.

This course is totally unrealistic, and it will leave the budget far from balanced at the last moment before a constitutional amendment takes effect. We will then face a Hobson's choice: either we will impose enormous short-term cuts that will destabilize the economy and salvage growth-oriented programs; or we will waive the constitutional amendment in its very first year, trivializing the Constitution and sending the worst possible signal to our people and the world.

The President's proposed course banks on the same rosy scenario of economic fantasies that his predecessor raised in 1981 to justify irresponsible tax cuts and defense spending increases. Those mistakes put our budget into this deficit bind, and a repeat of the same mistakes will not get us out.

In January of this year, the President issued an economic forecast that assumed one level of economic growth for a business-as-usual policy course, and another, higher growth path assuming the adoption of his growth package of tax cuts for the wealthiest Americans. Reasonable economists dismissed the claimed economic payoff of these policies, just as history has shown that the growth package of 1981 paid no budgetary dividends.

Now, however, under the requirement of a proposed balanced budget amendment to show how he would achieve balance, the President has reverted to type and resorted to a rosy economic scenario to reduce the apparent pain. He is predicting even more rapid growth from the same economic program that he had already overestimated in January. So, just as in 1981, the administration shows that in a crunch, it will choose the easy way out.

The problem is that the day of reckoning under a constitutional amendment will not wait for the President to find reality. When these supply-side policies fail, the Congress and the President will need to find the deficit reduction that they should have undertaken now. As a result, there will be a fiscal year 1997 budget crisis, in which essential programs will be gutted to comply with the Constitution; or the balanced budget amendment will be waived in its very first year, spreading public cynicism from the President and the Congress to the Constitution itself.

Thus, a balanced budget amendment to the Constitution will ill-serve the economy in the large, and the Federal Government as a part of our economic system in the small.

State requirements for balanced budgets are not comparable to a constitutional amendment.

Supporters of a constitutional amendment make the argument that the Federal Government should have a constitutional requirement for a balanced budget because most of the 50 States do. That is an analogy that is both superficial and misleading, as was made clear in a House Budget Committee hearing on May 13.

One witness, Steven D. Gold, director of the Center for the Study of the States and probably the Nation's foremost academic expert on State government, said that

> The State experience does not buttress the case for a Federal balanced budget amendment. * * * It is naive to believe that since States balance their budgets, the government should be able to do so as well. States do not always balance their budgets. Many States avoid deficits only by using funds carried over from previous years or by relying on gimmicks that often represent unsound policy.

Connecticut Gov. Lowell Weicker told us at that same hearing that when he entered office, his State had build up a $1 billion deficit "despite a balance-the-budget law that had been on the books for 53 years." How do States avoid balanced budget laws and constitutional requirements? Many simply use gimmicks, ranging from acceleration of tax collections and shifting programs off-budget to delaying payments, underestimating spending and overestimating revenue, and selling assets.

One of the biggest loopholes was pointed out at our hearing by Gov. Douglas Wilder of Virginia and former Gov. Dick Riley of South Carolina, both of whom are supporters of a constitutional amendment. They testified that despite their States' balanced budget requirements, they were permitted to issue debt for certain activities, primarily capital projects. Such debt financing for capital investments, which provides considerable flexibility for government, would not be allowed under the proposed amendment.

As one witness stated, the constitutional amendment under consideration would be "more restrictive than those in most States, even thought the Federal budget requires more not less flexibility because of the different role it plays in our economy." He was referring to the fact that tax increases or spending cuts in one State to balance its budget do not have nearly the national impact that similar actions have at the Federal level. A State action cannot throw the Nation into a recession. A very large Federal tax increase or spending cuts can.

So when it is said that States balance their budgets, so the Federal Government should, too, we should not accept that argument at face value.

Mr. Chairman, a constitutional amendment is not a solution to our deficit problem. It only elevates what is now an economic and political crisis into a constitutional crisis. The political process has worked before to produce real deficit reduction. In 1990, the President issued a challenge to the Congress, and we cut spending and raised taxes and established an enforcement process that is in the process of achieving nearly $500 billion in deficit reduction. The recession, the Persian Gulf war, the savings and loan rescue, and other economic factors have combined to thwart our efforts to balance the budget. But the fact is that deficits would be $500 billion higher over 5 years were it not for the budget agreement.

What is there in the Constitution now that has to be changed to get the President to issue the same kind of challenge now? Does it take a constitutional amendment to get our elected leaders to act responsibly? If that is so, then we have far more to worry about than deficits or a constitutional amendment. If that is so, we must seriously question whether our democracy is working. No constitutional amendment is going to solve that problem.

What is needed is the right kind of leadership from the President and the Congress. For the lack of leadership, we have only ourselves and the President to blame. We can do better, and we must.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, not only will we include the answers to the questions, but we will also be including in the RECORD this evening much additional explanation as to the amendment as it was offered, the intent. The authors of the amendment on both sides of the aisle, as best we can, will define for the RECORD the meaning that we imply in the amendment that we have offered tonight, plus the questions that the gentleman from California [Mr. PANETTA] has asked.

Mr. PANETTA. Mr. Chairman, reclaiming my time, I thank the gentleman from Texas [Mr. STENHOLM] for doing that.

Mr. Chairman, as I said, this is not going to be an easy decision for all of the Members as we approach this vote. But I would indicate to the Members that regardless of how this vote goes, it is my intent to bring an enforcement package to the floor so that ultimately we will put teeth in this amendment or put force and courage in ourselves to confront the choices that I have discussed.

Mr. SANTORUM. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am happy to yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Chairman, I would like to state to the gentleman from California [Mr. PANETTA], the gentleman said what we need is leadership. I could not agree with the gentleman more.

Mr. ALLEN. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Chairman, the gentleman from California [Mr. PANETTA] said what we need is leadership. The gentleman stated he is not convinced that this constitutional amendment will provide that leadership or that is the right thing to do. The gentleman said, "Well, I have faith in this body that somehow or another we will muster up the courage to do this."

Candidly, Mr. Chairman, I know the gentleman from California [Mr. PANETTA] has been working very hard, and I do not doubt that the gentleman has the intestinal fortitude to do it, because the gentleman has been trying to push the rock up like Sisyphus for a while now.

But the fact is the gentleman gets rolled all the time. Can the gentleman from California [Mr. PANETTA] tell me, if we are going to go back home and if that is what the gentleman wants us to do, because that is what the gentleman is asking us to do, saying don't vote for this, that somehow we are going to get some assurance that this is going to happen.

Tell me how it is going to happen, Mr. Chairman. Tell me how this is going to happen without any kind of motivation, where for a dozen years it has not happened.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I will tell the gentleman exactly how it is going to happen. It is when the President of the United States challenges this institution, the way he did in 1990, when he said we ought to come up with $500 billion in deficit reduction, and the leadership of the institution said, "We have to sit down and do that." And we did that.

□ 2230

Mr. SANTORUM. We have even higher deficits now than we did when that negotiation went on.

Mr. PANETTA. Not because of that agreement.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I would appreciate a chance to discuss with the chairman of the Committee on the Budget a point or two he made.

Do I understand the gentleman, and I am very sincere about this, that he is saying that changing the rules of the game will not facilitate more leadership coming forward because we are not going to change human nature by this amendment? We all know that, but do not the rules of the game under which we operate have something to do with the willingness of Members to exercise leadership, or does the gentleman feel it is totally irrelevant to the rules?

We do have a shortage of leadership. Is it not possible that that will just continue? And frankly, I am very concerned that if Mr. Bush is reelected, we will not get any more leadership for 4 more years.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. MOODY. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, my biggest concern is that we always seem to look for some kind of gimmick or some kind of procedural change or some kind of gun or some kind of club or some kind of amendment or some kind of other excuse to deal with these issues. Is that really what we have to do to try to meet these issues? I do not think we do.

I do think that the 1990 budget agreement is an example of where the President and the leadership of the Congress can confront this issue. But if we do not want to do that, if we do not want to confront those choices, if we do not want to confront these constituencies, if we do not want to raise revenues, if we want to play read-lips politics, constitutional amendment or any other amendment is not going to change that. That is my concern.

Mr. MOODY. Mr. Chairman, I understand that. I am not looking for excuses myself.

Mr. PANETTA. Mr. Chairman, I know that.

Mr. MOODY. The 1990 agreement was an exercise in some leadership, probably not nearly enough, frankly. We now know that we summoned up apparently all that we could summon and many Members on one side of the aisle are saying that the President should never make that mistake again and they are going to pin his ears back if he ever tries it.

So I am not sure we can look forward to that much leadership in the next 4 years if Mr. Bush is reelected. That is going to put us in a deep hole, which I do not think we will ever recover from.

I am willing, having not been willing before, to try to change the ground rules.

Mr. BARTON of Texas. Mr. Chairman, may I inquire of the Chair how much time I have remaining that I control?

The CHAIRMAN pro tempore (Mr. MFUME). The Chair advises all Members controlling time that the remaining time is as follows: The gentleman from Texas [Mr. BARTON] has 13 minutes remaining; the gentleman from Wisconsin [Mr. OBEY] has 4½ minutes remaining; the gentleman from Texas [Mr. STENHOLM] has 12½ minutes remaining; and the gentleman from Virginia [Mr. ALLEN] has 7 minutes remaining.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank the distinguished chairman of the Committee on the Budget for being here at this hour of the evening and engaging in these colloquies. I think he reflects a certain pride of authorship that perhaps clouds his judgment when he speaks of the 1990 Budget Enforcement Act.

That is a bill, that is a law that has been obviated and circumvented on every occasion that this body finds it convenient to do so.

The stark political reality of the situation is that agreements such as the Budget Act are the gimmicks. We absolutely need to have the shadow of a balanced budget constitutional amendment looming over this body in order to get us to do the right thing for the very reasons we have articulated tonight, the inability to muster political will, the absence of the sort of political leadership that we need in both bodies.

Let me ask the chairman of the Committee on the Budget, if I might, let

me share with him an impression. When I got there 18 months ago, I heard, and I think this is common on both sides of the aisle, the first advice I got in this body was, "Do whatever it takes to get reelected."

I quickly learned that that translates in congressional politics today to basically trying to be all things to all people. Trying to say yes to as many groups as possible, something that the chairman, of course, well knows. So what we try to do here, what we ultimately end up doing is trying to give everybody a little piece of the Federal pie.

I am frankly looking forward to joining with my colleagues over here in pushing for fundamental reforms. If not the balanced budget amendment, perhaps some proper political reforms that would again give the Congress the ability to stand up and do just exactly what the gentleman is advocating, Mr. Chairman, make these kind of difficult decisions.

I do not see in the current process that we have or in the current law that we have where that gumption and resolve would come from.

I want to throw it back to the chairman and get his reaction to my impressions and find out if we are on the same sheet here.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I think there is a problem of leadership not wanting to take risks. When we take risks, we basically put our jobs on the line.

If we are going to make those choices, we have to take those risks. The problem I see with the constitutional amendment is that my fear is that Members will vote for a constitutional amendment and then, when it does come to the tough choices, they will still escape.

Mr. STENHOLM. Mr. Chairman, I have no remaining requests for time, and I reserve the balance of my time to close out the debate on this amendment.

Mr. OBEY. Mr. Chairman, I have one more speaker, and I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have been here today for approximately 10½ hours debating the pros and cons of various balanced budget amendments, and whether we should even adopt one or not. I think there is consensus that we should do something. There is still diversity of opinion about what exactly should be done.

Before I respond to the specific amendments, I would like to make some comments in response to some earlier statements made by the distinguished gentleman from the great State of Texas, the Honorable CRAIG WASHINGTON. The gentleman from Texas, CRAIG WASHINGTON, is a very intellectually honest and a very intellectually astute Member, served this body well and before that the State senate in the great State of Texas well. But in his statement earlier on the House floor he spoke of various programs in Texas that we were receiving: the space station, the super collider, the V-22, the B-2 bomber. The gentleman said that there was some lack of political courage on many of the Members of the Texas delegation because we had refused to work against those programs, so to speak.

I would like to point out to the Members of this body that Texas is 47th out of the 50 Sates in numbers of dollars sent to Washington that are then returned to Texas. In fact, for every dollar we send to the Federal Government, we get approximately 7 cents back.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Chairman, does that include the S&L bailout money that is coming back to Texas?

Mr. BARTON of Texas. Mr. Chairman, my understanding is, it does. I would not swear to that under oath that it does.

The problem is not a Texas problem or a California problem or a Wisconsin problem or any other particular State's problem. The problem is that for every man, woman, and child in this country, we spend each year approximately 6,000 Federal dollars, of which 1,000 of those dollars are borrowed. We simply will not say no to any program.

As a result, the debt in this country has exploded.

When the good Lord and my mother brought me into this world in 1949, my share of the Federal debt that I assumed as the newest American citizen at that point in time was a little over $1,600. Today it is $16,000 and by the year 1995, it will be $20,000.

We have had 23 straight years of Federal deficits. My son, who was born on August 19, 1970, has never lived in a year that the Federal Government balanced its budget. He will be a senior in college this coming year.

There is simply no incentive to balance the Federal budget. As the distinguish Senator from Texas, the Honorable PHIL GRAMM, has said, "We all want to get to balanced budget heaven, but no one wants to make the sacrifices necessary to get there."

Many Members on the Democratic side of the aisle have attacked President Reagan and President Bush for not submitting a balanced budget. I would point out that the President recommends, that Congress enacts and the Committee on the Budget, the Committee on Appropriations, the authorizing committees, in no year has the Congress passed or even suggested passing a balanced budget amendment. There is blame to go around both in the executive branch and the legislative branch.

In the 7½ years that I have been a Member of the House of Representatives, I have had literally thousands of people come through my office asking for more money for their particular pet program. I have not had one person come in to my office and say, "Congressman BARTON, cut my program." Not one. There is simply no incentive to do that.

□ 2240

It is very similar to a wartime situation. When we are actually in a shooting war, very few people volunteer to go to the front for active duty, so we institute a draft. Once we institute that draft, most Americans will serve their country and do their duty.

That is what the balanced budget amendment is all about, implementing a draft that then will force us to do our duty. I think it is very, very necessary that we do that.

Tomorrow when we come to the debate on the specific amendments there are going to be four specific amendments offered:

The Allen-Kyl-Fish amendment that is a spending limiter, with a line-item requirement;

The Obey-Gephardt amendment, which is a general balanced budget amendment that exempts Social Security;

The Barton-Tauzin amendment that has the supermajority vote to borrow money, the supermajority vote to raise the national debt, and the supermajority vote to raise taxes;

And, finally, under the "king-of-the-hill" approach, the Stenholm-Smith-Carper amendment that says a supermajority vote to borrow money, a supermajority vote to raise the debt ceiling, and a simple constitutional majority to raise taxes.

We can disagree or agree over which particular amendment we support or oppose, but the bottom line is, at approximately 5 o'clock tomorrow afternoon we are going to be voting on one of these amendments for the two-thirds required to pass a constitutional amendment.

I sincerely hope that amendment that we vote on for final passage is the Barton-Tauzin supermajority tax limitation amendment. It has been supported by President Bush, 13 national conservative organizations, and in every opinion poll that has been taken, when the American people have had a choice to make, they have supported more strongly a balanced budget amendment with the supermajority vote to raise taxes than any other amendment.

But if it is not Barton-Tauzin, and in all probability it will not be, in all

probability it will be the Stenhold-Smith amendment, I urge every Member of this body to vote in the two-thirds majority required for a constitutional amendment to pass Stenholm-Smith, if that is the amendment. We simply have no other alternative.

Winston Churchill once said about American democracy that "we always did the right thing once we had tried everything else." That is where we are. We have tried everything else. We simply have not been able to balance the budget, and will not be able to balance the budget at the Federal level until we pass a balanced budget amendment to the Constitution.

I urge us to vote for Barton-Tauzin tomorrow, and then on final passage, if it is the Stenholm-Smith vote, let us vote the two-thirds required to get that amendment into the Constitution.

Mr. Chairman, I yield back the balance of my time.

Mr. ALLEN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I would like to make a point, a point that was made earlier by the distinguished chairman of the Committee on the Budget concerning the 1990 budget agreement. The 1990 budget agreement was a balanced budget amendment that gave us things such as forward funding. The public may not realize what forward funding is, but there was a budget agreement that was reached to limit spending, and without a balanced budget amendment, we ended up spending next year's money this year and calling it forward funding.

What we ended up with also was dire emergency bills that have nothing to do with dire emergencies. For example, just the recent bill that we were doing to help the city of Los Angeles out after this great riot situation has come back to us with $2 billion which are not really emergency funds. These are types of things we get when we do not have a balanced budget amendment, and we rely instead on these types of compromises which do not change the basic fundamentals of the process around here.

Changing the process with a balanced budget amendment would indeed be a congressional empowerment act as well as a balanced budget act, because it would empower us to make the decisions that would be necessary to really fulfill the need that we have today.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, nothing in this balanced budget amendment would stop forward funding.

Mr. STENHOLM. Mr. Chairman, I have no remaining requests for time. I would like the privilege of closing out the debate, and I reserve the balance of my time.

Mr. ALLEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard many comments. We have heard a lot of comments here toward the end as to these great fears of a constitutional amendment.

The gentleman from California [Mr. PANETTA] on one hand fears a constitutional amendment will not do anything, that the restrictions will be avoided. Of course, if we look at the record of Congress and the record of the Federal Government, obviously, I can understand why he feels that it will be avoided. The national debt is nearly $4 trillion, and the Federal Government has run deficits 53 of the last 61 years and 30 of the last 31 years, so I can understand why he does not have any faith in the machinations or has fear of the machinations of the Congress and the Federal Government.

The gentleman then says that the constitutional amendment is a gimmick. It is not a gimmick. It has been tried out by virtually every State. It is part of their constitutions and their laws in the States, and it works well in the States.

On the other hand, the gentleman from California says there is a danger in passing such a constitutional amendment because it is going to cause drastic cuts, or he fears it will go to Federal judges to make these decisions. I do have faith in the President and in the Congress that these institutions, the executive and the legislative branch, will certainly not want to abdicate their responsibility to the judiciary.

The real danger, the real danger, and why so many of us are in favor of a constitutional amendment, is, and I will give a bill of particulars, the largest item in this year's fiscal 1993 budget is the interest on the national debt. It is 21 percent of all Federal spending. This spending is in fiscal year 1993 is more than the total revenues the Federal Government received in 1976. The interest on the national debt amounts to over $7,000 for every family of four.

That is the situation we are in, and that is why we need to have a constitutional amendment. The alternatives are many. The gentleman from Arizona [Mr. KYL] and I will have the first amendment to be voted on tomorrow. It will be under the Fish amendment.

Ours requires a balanced budget, limits spending to 19 percent of the gross national product, which has been the average for the past 25 years, and provides Congress with an incentive to implement positive economic growth policies to get more revenue in. It allows Congress to waive the balanced budget requirement and the spending limit with a three-fifths vote, and it provides line-item veto authority to the President.

This is the only substitute with an enforcement mechanism, and the only opportunity that Members have ever had on this floor to vote for the line-item veto.

What have others said about the Kyl-Allen amendment? The gentleman from Arizona [Mr. KYL] quoted Citizens for a Sound Economy that said, "The Kyl-Allen—balanced budget amendment—would provide strong incentives to implement pro-growth policies." We have that, and the amendment of the gentleman from Texas [Mr. STENHOLM] does not.

Michael Schuyler of the Institute for Research on the Economics of Taxation stated:

> The Kyl-Allen proposal would tackle rising Government spending head-on. For added fiscal discipline, another section of the proposal would arm the President with a line-item veto.

Americans for Tax Reform says that "Americans for Tax Reform is opposed to any balanced budget amendment that does not contain a tax or spending limitation clause." "We support * * * the Kyl-Allen spending approach." The Stenholm amendment, the amendment from the gentleman from Texas, does not include that.

The U.S. Chamber of Commerce is concerned with a balanced budget because they strongly urged the support of an amendment to the Constitution that includes taxes and spending limitations, rather than using the growing support for a balanced budget amendment as an excuse to raise taxes again. Again, the Kyl-Allen amendment has that, the Stenholm amendment does not.

Finally, we do have the line item veto, which the National Taxpayers Union says would be an important tool to achieve a more fiscally responsible budget.

Yes, a constitutional amendment is absolutely necessary to force a discipline on the President and the Congress. We have to adopt, in my view, Mr. Chairman, the best protection for the taxpayers, the best protection for our economy, and the best protection for future generations.

I hope the Members will vote tomorrow for the Kyl-Allen amendment. If it does not have sufficient numbers in favor of it, I hope they will support the Barton amendment, and in the event that those all fail, I certainly hope they will support the Stenholm-Smith amendment, because the discipline is absolutely necessary, because the record of Congress is one of profligate spending. We need the sobriety of a constitutional amendment to put discipline into this system we have up here in Washington.

□ 2250

Mr. Chairman, I yield back the balance of my time.

Mr. OBEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would simply like to say in closing that, as I said many

times before, everybody has their favorite philosopher. People talk about Plato, they talk about Aristotle. I talk about archy the cockroach, and archy said something which I think fits this debate. He said:

Man always fails because he is not honest enough to succeed. There are not enough men continuously on the square with themselves and with other men. The system of government does not matter so much, the thing that matters is what men do with any kind of system they happen to have.

I really think that is true in this case. I do not believe that we need a constitutional amendment to bring back fiscal sanity to the U.S. Government. But if the majority of this House feels that we do, and apparently they do, then it seems to me that we have an obligation, while using the force of the Constitution, to reintroduce the Government to fiscal sanity. We have the obligation in the process not to enshrine in the Constitution the principle of minority rule, especially on something as important as economic policy. And I also think that we have an obligation not to threaten Social Security. And I think most of all we have an institutional obligation to reintroduce the Presidency to its responsibilities to be real in the kind of budgets they send, because as I said earlier in the debate, no Congress going back to Harry Truman has ever changed any President's budget by any more than 3 percent. The fact is that Congress over the last decade has appropriated in all but 1 year less than the President asked for, and, in fact, over that decade has appropriated over $20 billion lower than the President has asked.

The other thing I think we have an obligation to do is to begin the process now rather than waiting until the hereafter, as we are asked to do by some of the other amendments before us this evening.

So I would urge support for the Gephardt-Obey amendment when it is before us tomorrow.

Mr. RIGGS. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. RIGGS. Mr. Chairman, I appreciate the gentleman's thoughtful statement. I am curious, since the gentleman is opposed to a constitutional balanced budget requirement, but is in favor of the administration being an active partner in it——

Mr. OBEY. No; I am the sponsor of the Gephardt amendment.

Mr. RIGGS. I realize that. But the gentleman made some statements which I would like to clarify if I might. Does the gentleman support a Presidential line-item veto?

Mr. OBEY. Our amendment is better than a line-item veto authority which has nothing whatsoever to do with spending. It has everything to do with power. Under our amendment we say that the Congress will not be able to raise the total spending level above the amount recommended by the President at the beginning of any fiscal year. We give the Congress the authority to debate priorities within that overall cap. And since the Congress has very rarely exceeded spending recommended by the President, I think what we are simply doing is recommending what, in fact, is reality. And I think it is better than a line-item veto because it is honest. It gives the President the authority to control spending levels, but it does not give him the power to control every jot and tiddle within that limit.

Mr. RIGGS. So just to clarify, if the gentleman will yield for a moment more, the gentleman then does support a balanced budget amendment?

Mr. OBEY. I do not regard any of these as balanced budget amendments. None of these amendments will balance the budget. What they do is build in institutional incentives one way or another. But any one of them that claims to balance the budget is in my view a fraud.

Mr. SANTORUM. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Chairman, I am curious that the gentleman criticizes the amendments that are being offered by the gentleman from Texas [Mr. BARTON], and the gentleman from Arizona [Mr. KYL], because they enshrine supermajority rule. Yet in your amendment you enshrine a program that was just created what, 50 years ago, 55 years ago. You enshrine in the Constitution a program, a Government program that was adopted back in the 1930's, you enshrine it in the Constitution in perpetuity.

Mr. OBEY. Which program is the gentleman describing? Is the gentleman against Social Security?

Mr. SANTORUM. I am not saying that I am against it. I am just saying that if you are a constitutional purist, be a constitutional purist.

Mr. OBEY. Does the gentleman think we ought to cut Social Security? I do not.

Mr. SANTORUM. There we go again. Here we go again. Let us throw fear out into this debate again.

The CHAIRMAN pro tempore (Mr. MFUME). The time of the gentleman from Wisconsin [Mr. OBEY] has expired.

The Chair recognizes the gentleman from Texas [Mr. STENHOLM] to close debate.

Mr. STENHOLM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would make just a few closing points. First I want to sincerely thank Mr. SMITH, Ms. SNOWE, Mr. MOODY, Mr. CARPER, Mr. BARTON, Mr. TAUZIN, all of our staff and all of the other staff who have worked throughout this day, throughout the last week, and for many throughout the last many years as we have reached the point now in debate in which we look forward to once again voting whether or not we shall in fact have a constitutional amendment to require a balanced budget.

I have never inferred in the slightest that our amendment will balance the budget. What we have contended, very close to 290 Members, and we shall see tomorrow, what we have contended is that we do need an additional restraint, an additional reason, an additional backbone firmer or whatever you might want to call it to give this Congress, this President, the next President and the next Congress the courage or the reason to do that which we believe is extremely important to the future of this country.

We have had many references today about our children and our grandchildren, and I think that is what it is all about. And I, like the gentlewoman from South Carolina, wonder what the senior citizens who have been flooding the phones really are thinking. I wonder if they really realize that what they are saying is that we want more today so that you can pay more tomorrow. You cannot escape that.

I appreciate the fact that we have not quite gone over the edge today in once again politicizing Social Security, because that would be a mistake to go over the edge on that one again, because I think in the final analysis we are going to have to have the support of every single citizen in America if we are going to deal with this debt and deficit.

I have asked over and over and answered the question over and over: Do you believe that our debt and our deficit are important? If you say no, then let us just keep on trucking. If you believe that it is, as those of us who support this amendment believe that it is, then let us take a look at how we can in fact give us those necessary tools.

I have been amused by many of my colleagues today who have talked about the need of courage and leadership. I cannot help but remember in 1984, April 4, Roemer, 59 Members had the courage. If we had had 218 that day we would not be here talking about a $400 million deficit.

I remember May 23, 1985, Leath, SLATTERY, MacKay, and JIM SLATTERY of Kansas is still with us, and the other two have retired. Once again, we had an opportunity to show courage on this floor of the House and 56 men and women stepped forward that day to provide the courage and the leadership.

March 23, 1988, our colleague from Minnesota, TIM PENNY, in one of his many moves, and that day 27 of us stepped forward.

And then just a few weeks ago we had the walls vote. And again it is interesting to read the editorials and listen to the conversation and the debate and

the statements about courage and the importance of the deficit and why we believe our way is right. Check the voting record.

□ 2300

There are quite a few Members who stood up that day that have spoken today, but as we look back over a period of 6, 8, 10 years, we have been lacking. You know, I cannot help but wonder, as many of my colleagues I know have, what it was like 200-plus years ago when our forefathers sat down and wrote the original Constitution. We read about that. We have studied it in the history books, and we find that most of us marvel that they were ever able to find in that case, not 200 votes, a majority of votes. There were 52, was it, who were supposed to be there. Forty-three showed up, and how they ever got a consensus, but they did, because they were willing to compromise.

Do you know what I say to those who oppose this tomorrow? It is a very close vote. We can win it 290 to 145. We can lose it 289 to 146.

I would submit to the Members that those of us who believe that we are ready to step up to the plate and that the Constitution is a very serious document and that our amendment to it is taken very seriously, that we will have a much better opportunity to find 218 votes to provide the courage for dealing with it in the Congress out of that 289 than we are going to find in the 146. Perhaps I am wrong, and I too, like my chairman, the gentleman from California [Mr. PANETTA], of the Committee on the Budget, win or lose tomorrow, this Member is going to be extremely interested in enforcement.

Because win or lose tomorrow, the problem will still be there, and we are still going to have to deal with it. It is still going to require courage and willingness to compromise and dropping some of our personal desires. The ones of us who absolutely have to have it perfect and convince our folks back home that we have got all the ideas and try to explain why 217 do not agree with us.

I listened to my colleague, the gentleman from California [Mr. DELLUMS], very attentively today, and every year he brings up his amendment, and he gets less than 100 votes. Then I hear folks on the other side that say, "You know, if you use the 'T' word, you are off the reservation. You are never going to sit down and talk." If you eliminate 100 on this side and 150 over here, where are we going to get 218 votes? Most of us in the 290 are saying, "Look, let us deal with it seriously, but we need a constitutional amendment."

Believe it or not, we need something to give us the courage and the reason to do something which is necessary. I wish we did not have to do it. I wish I did not have to stand here and say that. But I believe it in my heart that it is the truth.

Therefore, as we close the debate tonight, as we look forward to tomorrow, I cannot think of a better way to close it than to say to all who are interested in this question: Do not forget the children.

Mr. Chairman, I am including for the RECORD the section-by-section analysis of our amendment that I had promised the gentleman from California [Mr. PANETTA]. It is here, and we will be submitting it for the RECORD. The specific questions, we believe, are answered in this. Should they not be, we will have the entire answers to his questions by 9 o'clock in the morning. I submit this for the RECORD at this time.

SECTION-BY-SECTION ANALYSIS

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.J. RES. 290 OFFERED BY MR. STENHOLM

Section 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

This section sets forth the general rule of this Article, and the central principle to be observed and enforced, that the Government of the United States shall not live beyond the means provided for it by the true sovereign, the people.

Therefore, this section establishes, as a norm of federal fiscal policy and process, that the government's spending should not exceed its income. While popularly—indeed, universally—referred to as requiring a "balanced budget", its mandate is both simpler and more comprehensive, requiring a balance (or surplus) of cash inflows relative to cash outflows.

Any departure from the general rule in this section and its guiding principles should be an extraordinary event, based on a compelling need. As is commonly the case with constitutionally established parameters for the legislative process, no attempt is made to enumerate all the circumstances that might justify deficit spending; if a three-fifths supermajority of each House of Congress believes an emergency, crisis, or urgency exists (and if the President concurs), it does. This formulation both makes the option of deficit spending difficult to exercise, yet available when a fairly strong national consensus exists.

Detailed analysis:

"Total outlays" and "total receipts" are defined below in Section 7.

". . . fiscal year . . ." is intended as a term defined in statute and having no other, specific, constitutional standing. It is a commonly understood term in both private and public usage. While the definition of a fiscal year could be changed from time to time, the concept is sufficiently well understood that a blatant attempt to contravene the intent of the amendment would not be acceptable.

For example, creation of a "transition fiscal year" of 18 months to facilitate reforms in the budget process clearly would be consistent with the amendment. On the other hand, legislation purporting to implement the amendment that promised to balance the budget for the fiscal year 1993–2008, with little or nothing in the way of procedural discipline in the early portion of that "year", clearly would be unconstitutional. Certainly, a simple "rule of reason" would be applied to any statutory definition of a "fiscal year".

"* * *" is a term readily obvious in its intent, spirit, and application. It is mandatory language simply meaning you may not. Saying that "Total outlays * * * shall not exceed total receipts" states both the goal to be pursued and the yardstick by which successful compliance with this amendment is measured. It prohibits fiscal behavior intended or reasonably likely to produce a deficit within a fiscal year.

"* * * three-fifths of the whole number of each House of Congress * * *" indicates the minimum proportion (60%) of the total membership of each House needed to approve expenditures producing a deficit. Currently, this would mean 60 of the 100 Senators and 261 of the 435 Representatives.

The term "whole number" is derived from, and intended to be consistent with, the use of the phrase in the 12th Amendment to the Constitution, "two-thirds of the whole number of Senators" (which is set as the quorum necessary for the purpose of electing the Vice President in case no candidate receives an Electoral College majority).

"* * * shall provide by law * * *" both states a simple consistency with other provisions of the Constitution and clarifies a difference between the deficit spending provided for under this amendment and a deficit planned for in a Congressional Budget Resolution.

Article I, Section 7, Clause 3 of the Constitution states: "Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States" for signature or a veto. Clearly, a vote by both Houses that results in deficit spending would be such a vote.

However, an additional reason for adding this clarifying language is that such a vote might easily be confused with the deficit that may be estimated in a budget resolution, which currently is not presented to the President. While budget resolutions are Concurrent Resolutions generally passed by both Houses, concurrence is not necessary, since budget resolutions actually fall under the "Rules of its Proceedings" that "(e)ach House may determine" under Article I, Section 5, Clause 2. This is because budget resolutions merely set target amounts for subsequent budget decisions made within each House. (The ultimate decisions requiring concurrence, appropriations or other direct spending bills, are presented to the President.) In fact, the House often has proceeded to act pursuant to a House-passed budget resolution in prior to and in lieu of House-Senate agreement on a single resolution.

Obviously, the ⅗ vote on permitting a deficit under this amendment is not a determination of an internal rule in either House, but has direct and immediate consequences external to the rules of either House. Therefore, the words "by law" state what normally would be obvious, but which might be confusing here, due to current budget resolution procedures.

"* * * a specific excess of outlays over receipts * * *" means that the maximum amount of deficit spending to be allowed must be clearly identified. Thus, enforcement of the amendment through the political process will be facilitated by improving elected officials' accountability to the public. The specific excess which is provided for by law would not apply to outlays in more than one fiscal year and may, in fact, apply to an excess that occurs over a shorter period, such as the remainder of a fiscal year, when the law is enacted mid-year.

Ensuring such accountability is a cornerstone of the Balanced Budget Amendment, and restores the public's general interest in fiscal responsibility to an equal competitive footing with the special interests who demand programmatic spending and tax preferences. Today, federal officials can reap the rewards of satisfying the incremental demands of special interests without ever having an individual decision identified as a decision that results in a deficit. This informational imbalance is corrected by the mandate in Section 1 that deficit spending can not occur without a specific identification of the amount.

Changes from H.J. Res. 290, as introduced:

As originally introduced, Section 1 of H.J. Res. 290 read:

"Prior to each fiscal year, the Congress and the President shall agree on an estimate of total receipts for that fiscal year by enactment of a law devoted solely to that subject. Total outlays for that year shall not exceed the level of estimated receipts set forth in such law, unless three-fifths of the whole number of each House of Congress shall provide, by a rollcall vote, for a specific excess of outlays over estimated receipts."

The new Section 1 in the substitute takes cognizance of numerous comments offered, regarding the original language, in 1987 and 1990 hearings in the House Committee on the Judiciary, 1992 hearings in the House Committee on the Budget, during House floor debate in 1990, and otherwise. The authors have attempted to be responsive to all thoughtful comments and criticisms and to streamline and simplify the language.

"Prior to each fiscal year" was deleted both as hortatory (possibly even surplus) language, and in response to the inevitable question, "What if it isn't done by the beginning of the fiscal year?" Such simple timing questions are best left up to implementation and enforcement legislation.

"Congress and the President shall agree" was removed because "agree" truly was hortatory language. Although it stated a laudable goal, this phrase caused some confusion and raised a question of the legal consequences of a lack of an actual agreement. The words, "by enactment of a law", in the original language referring to establishing a receipts estimate, have clear meaning within the Constitution currently and would control, rather than the hortatory "agree" language. It was intended that Congress still could override a presidential veto of a receipts estimate. In deleting all of the first sentence of the original Section 1, all such possible confusion is also removed.

"* * * an estimate of total receipts * * * by enactment of a law devoted solely to that subject * * *" is deleted from Section 1 to remove the mandating of a specific procedural step that, however beneficial, is not necessary in the Constitution.

The authors in no way intend for the substitute to require a less flexible process in the establishment of a receipts estimate and the use of that single estimate as a benchmark against which to measure total outlays throughout the fiscal year. On the contrary, the substitute provides the same flexibility as would have been permitted under H.J. Res. 290 as introduced, and consistent with the language and purpose of Section 1 of the substitute. The permissible use of estimated receipts is moved to a new Section 6 which requires implementation and enforcement legislation.

Section 2. The limit on the debt of the United States held by the public shall not be increased unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

No section of this Article should be read in isolation, especially Section 1. Section 2 provides the essential mechanism which not only enforces an honest budgeting process in pursuit of the general rule and principle stated in Section 1, but also will operate to make the amendment self-enforcing.

This Section is inspired by the often-quoted desire expressed by Thomas Jefferson, in his November 26, 1798 letter to John Taylor:

"I wish it were possible to obtain a single amendment to our constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of its constitution; I mean an additional article, taking from the government the power of borrowing."

The authors here have drawn from recent experiences of the government and modern economic theory to reach a compromise with then-Vice President and later President Jefferson: Section 2 takes from the government the power of borrowing, unless three-fifths of the total membership of both Houses votes to approve a specific increase in the amount that may be borrowed.

Section 2 provides strong enforcement, indeed, for the provisions of Section 1. When the government runs a deficit, that necessitates additional borrowing to meet its obligations. Failure to authorize that level of borrowing could, in a worst-case scenario, result in a default by the government of the United States. Treasury securities might not be redeemed. Government services could be threatened with a shutdown, subject to the availability of receipts.

Today, such a consequence is occasionally threatened when an impasse with Congress or between Congress and the President jeopardizes passage of essentially ministerial legislation raising the statutory limit on the public debt by a simple majority. Under this amendment, the threat of default would loom when the government runs a deficit, thus providing one of the most powerful incentives imaginable for balancing the budget.

The simple threat of default does not fully explain the way Section 2 will operate to enforce the fiscal norm of balancing outlays and receipts. Because a debt-increase bill represents an admission of failure of enormous magnitude, passage is always a difficult matter.

Under current law, Members of Congress not infrequently have rounded up 50% plus one of the Members of one House to threaten to push the government to the brink of insolvency unless a pet amendment is added to this must-pass legislation, despite consistent efforts by the Administration and the Congressional leadership of both parties in both Houses to pass a "clean" debt bill. This "debt bill blackmail", in fact, was the tactic used to enact the original Gramm-Rudman-Hollings law of 1985.

By lowering the "blackmail threshold" associated with passage of the regular debt limit bill from 50% plus one in either body to 40%+ one, Section 2 increases the motivation of the Administration and the Leadership, including the Chairs of the relevant committees, to do whatever is necessary, legislatively and cooperatively, even to the point of balancing the budget, to avoid facing such a difficult debt vote.

It is in no way the intent of the authors and supporters of this amendment that a default or shutdown should happen. However, the threat of such consequences is analogous to the deterrence effect of fines or legal damages in other situations.

Because borrowing, and increases in any limits on cumulative borrowing, must be enacted in law, Section 2 makes the amendment effectively self-enforcing. Such legislation usually involves large enough numbers of dollars to be borrowed that extensions of authority to borrow generally are used up in a year or so. The current statutory limit on the public debt, enacted as a part of the Budget Enforcement Act late in 1990 and allowing borrowing into 1993, is very much an exception in this regard; this lengthy term of borrowing, not quite three years, was made possible only by the status of the Act as an extraordinary, five-year plan. Virtually no elected official can stand the political heat of supporting a huge, multi-year increase in the government's level of indebtedness. This simple political dynamic will ensure that the self-enforcement provided by Section 2 occurs frequently enough to be effective.

Finally, when three-fifths of both Houses have "gutted up" and, under Section 1, voted explicitly for a specific excess of outlays for an identified purpose, there is no intent in this amendment to "punish" them by later forcing a second three-fifths vote on the debt limit. Both decisions can be approved by the same, single, three-fifths vote in the same legislation.

Detailed analysis:

* * * debt of the United States held by the public * * *" is a widely used and understood measurement tool. The Congressional Budget Office's January 1992 Economic and Budget Outlook: Fiscal Years 1993–1997 book, in its Glossary, defines "Publicly held federal debt" simply as: "Debt issued by the federal government and held by nonfederal investors (including the Federal Reserve System)." On page 66 of the same volume, CBO further explains, "Debt held by the public represents the government's appetite for credit and is the most useful measure of federal debt." The current, widely used and accepted meaning of "debt held by the public" is intended to be the controlling definition under this Article.

The "debt held by the public" differs from the gross federal debt in that the latter, according to CBO, page 66, "includes the securities (about $1 trillion and climbing) issued to government trust funds." The gross debt is the "close cousin" (per CBO) of the "public debt".

The Congressional Research Service's Manual on the Federal Budget Process, December 24, 1991, in its glossary, defines "Public debt" as: "Amounts borrowed by the Treasury Department or the Federal Financing Bank from the public or from another fund or account. The public debt does not include agency debt (amounts borrowed by other agencies of the Federal Government). The total public debt is subject to a statutory limit."

A requirement of a three-fifths vote on the "public debt" has been used in some previous formulations of the Balanced Budget Amendment. The use, here, of "debt held by the public" is a refinement based on a 1990 recommendation by the Administration and subsequent review by the authors of the implications of using the different measures of debt. "Debt held by the public" has been chosen for two reasons:

First, as pointed out by CBO, common sense suggests that the most appropriate benchmark to use is the federal government's borrowing from all non-federal-government sources.

Second, the purpose of this section is to motivate an avoidance of deficits. When the

Social Security or other federal trust funds run surpluses, this does not cause total outlays to exceed total receipts and the government does not increase its borrowing from non-government sources. Therefore, Congress and the President should not be forced to surmount the three-fifths vote hurdle on debt bills if they have not run a deficit and increased net federal borrowing. Section 2 matches the benchmark used in the enforcement process to the policy objectives desired.

"The limit on the debt * * * held by the public * * *" obviously assumes the establishment of a new statutory limit on this measure of federal borrowing. This limit may be established in addition to, or as a replacement for, the current statutory limit on the public debt. Article I, Section 8 of the Constitution simply says, "The Congress shall have Power * * * To borrow Money on the Credit of the United States. * * *" The exact process of carrying out this power is left up to the Congress to provide for by law.

When establishing a new statutory limit on the debt held by the public (which will require a three-fifths vote to increase), Congress may or may not wish to continue to set by statute a limit on the public debt. The fact that a simple majority could continue to be required to pass such a public debt limit would not, in any way, create procedural or legal conflicts. At times when a trust fund surplus necessitates an increase in the public debt, such action would become more ministerial and less difficult than currently is the case. Increases in both limits certainly could be contained in the same bill that is passed by a three-fifths vote.

Changes from H.J. Res. 290, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Section 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

In Section 3, the amendment extends to the President's annual budget the same norm of fiscal balance expected of the Congress.

The current statutory requirement that the President submit a budget is codified in the Constitution to ensure that the President remains engaged with Congress in the budget process. Of course, this requirement of submission of a single document in no way alters the current constitutional balance of powers or separation of responsibilities. It also is perfectly consistent with the current constitutional provisions that the President "shall * * * recommend to [Congress'] Consideration such Measures as he shall judge necessary and expedient" (Article II, Section 3).

Detailed analysis:

"Prior to each fiscal year * * *" was retained in Section 3 because of the long-understood legislative principle that deadlines certain can be set, and in fact are commonly expected to be set, for specific actions by the Executive. Currently, the deadline for submission of the President's budget is set by statute and occurs well in advance of the fiscal year for which it is written. Such statutory provisions are, and will remain, consistent with Section 3.

"* * * a proposed budget * * *" means a document similar, in broad terms, to that which is regularly submitted under current law. The amendment in no way restricts the discretion of Congress to enact changes in what is or is not required in such a budget, as long as the document remains useful for the purposes of planning federal spending activities.

"* * * in which total outlays do not exceed total receipts." per se, a "budget" is a document in which all relevant future numbers are planned, recommended, projected, estimated, or assumed. This is true, as a matter of definition, of all documents called "budgets," public or private. Therefore, no qualifiers are added to this language in Section 3, such as "estimated receipts" or "recommended outlays". To include such terms would be redundant at best, inadvertently confusing or limiting at worst.

Changes from H.J. Res. 290, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Section 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

The purpose of this section is to increase the accountability of Members of Congress when they consider legislation to increase revenue, in light of the amendment's requirements to balance receipts and outlays. The increased pressure the amendment will create for fiscal discipline may increase temptation to shield a certain amount of legislative decision-making from public view. Tax bills have been known to pass, occasionally, by voice vote.

The enhanced "tax accountability" (or, more precisely, accountability with regard to passage of bills to increase federal revenue) provided by the unvarying requirement for a rollcall vote, is supplemented by the requirement that such bill also shall not become law unless passed by a supermajority, in this case a majority of the whole number of each House.

The rollcall vote and supermajority requirements will serve to maintain a level playing field between the public's more general and diffuse interest in restraining the government's appetite for revenues and the more focused pressure that special interest groups can apply for individual spending programs.

Detailed analysis:

"No bill * * * shall become law unless * * *" is drafted in the negative to conform to the style used in Article I of the Constitution, in phrases such as, "No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census * * *" and "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law * * *."

"* * * revenue * * *" has the same meaning here as in Article I, Section 7, which states, "All Bills for raising Revenues shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills."

"* * * bill to increase revenue * * *" means legislation making policy changes in the government's exercise of its sovereign power to tax or otherwise compel payments to the government. "Revenues" and "receipts" are largely synonymous, but not always so, especially when being used prospectively. Both are expressed in terms of quantities of dollars flowing into the Treasury. However, "revenue" is more closely connected to the tax rates, tax base, Customs rates, or other policy criteria formulated to produce inflows of receipts. A "receipt" is a more purely and more comprehensive quantitative concept. For example, a bill to step up Internal Revenue Service enforcement of current tax laws and enhance collection of taxes currently going uncollected definitely would result in increased receipts, but would not be "a bill to increase revenue," and therefore, not subject to the requirement of a majority of the whole House for passage. ("Receipts" are further defined under Section 7.)

"* * * majority of the whole number of each House * * *" means, under current law, never less than 218 votes among the 435 Members of the House of Representatives and never less than 51 votes among the 100 Members of the Senate. The "whole number of each House" is defined under Section 1, above.

Changes from H.J. Res. 290, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Section 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

This section reaffirms the traditional priority presumptively attached to matters of national self-defense. In such cases, especially when the Congress and the President have taken an action as extraordinary as declaring war, financing that effort should proceed unimpeded by any requirement of additional, extraordinary votes.

Detailed analysis:

The first sentence of Section 5, or a virtually identical counterpart, has been a fixture in almost every major version of the Balanced Budget Amendment over the years. Consistent with Article I, Section 7, Clause 3, such a simple majority vote to waive this Article would have to be presented to the President for his or her approval.

The second sentence recognizes that, for most of the military conflicts in which the United States has engaged, there was not a formal declaration of war. Nevertheless, a sufficient self-defense interest is present in such situations that a Section 1 supermajority should not be required to fund such an engagement. Further definition of the criteria set forth for the "majority of the whole number" waiver in Section 5 is not needed, since the Section requires simply that the joint resolution required for the waiver declare such conditions to be present.

Changes from H.J. Res. 290, as introduced:

The first sentence of the substitute Section 5 makes no changes to this section as it appeared in the Article as introduced. The second sentence, which has been added in this substitute, has been approved by the Senate Committee on the Judiciary as an amendment to companion legislation, S.J.Res. 18. The difference between and graduation of the waiver requirements in the two sentences is intentional, and is based on the principle that the threshold of difficulty for deficit spending should be raised as the declared level of the seriousness of the military engagement declines.

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

This section requires the adoption of legislation necessary, appropriate, and reasonable to enforce and implement the Balanced Budget Amendment. There is no need—and arguably it would be a bad idea—explicitly

to foreclose the possibility of judicial interpretation or enforcement. However, this language further tilts presumptions of such responsibilities toward extremely limited court involvement. This language also is intended to prevent the possibility of an interpretation that could shift the current balance of power among the branches in favor of the Executive.

Detailed analysis:

"The Congress shall enforce and implement * * *" differs from clauses included in several other amendments that state, "The Congress shall have power to enforce * * *." This latter clause has been employed only where there was concern that the question could arise as to whether Congress had the power to pre-empt state laws or constitutions or was venturing impermissible beyond its constitutionally enumerated powers and into the rights reserved to the states or the people.

Here, no such question of pre-emption is conceivable. Congress clearly has the power to enforce and implement this Article, under the "necessary and proper" clause in Article I, Section 8, which states: "The Congress shall have Power * * * To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the government of the United States, or in any Department or Officer thereof.

Unlike previous amendments, this section creates a positive obligation on the part of Congress to enact appropriate implementation and enforcement legislation. As a practical matter, this language simply requires what is inevitable and predictable. It is a simple statement that, however well-designed, a constitutional amendment dealing with subject matter as complicated as the federal budget process needs to be supplemented with legislation. It is a means of owning up to the truth in the arguments made by many Members of Congress—both supporters and opponents—that Members must expect to do more than cast this one vote to pass this one amendment, to ensure that deficits are brought down and, ultimately, eliminated.

"* * * which may rely on estimates of outlays and receipts." This phrase allows Congress the flexibility in explicit language that it will need in practical effect, to make reasonable decisions and use reasonable estimates, when appropriate, as a means of achieving the normative result required in Section 1. To some extent, this phrase, too, states the obvious, that the process of budgeting and taxing and spending inevitably involves relying on estimates. "Estimates" means good faith, responsible, and reasonable estimates made with honest intent to implement Section 1 and not evade it.

The estimates contemplated in Section 6 do not apply in any way to a determination of the amount of debt referenced in Section 2. "Debt" there means actual, not estimated, debt.

Section 1 provides the standard by against which compliance with the amendment is measured. Section 6 clarifies that implementation and enforcement legislation may provide for the use of reasonable and appropriate estimates in the process of complying with Section 1. Section 6 is intended to support, strengthen, and aid the effectiveness of the other provisions of the amendment. This provision also will provide additional insurance against intrusion by the courts into the finer details of questions of compliance with the amendment.

Section 6 must not be interpreted in any way that would weaken or allow evasion of any other provision of this amendment. Over the course of the fiscal year, outlays may not exceed receipts. To the extent that any reasonable and lawful action can be taken to prevent an excess, it must be taken. On the other hand, for example, a brief dip in receipts or jump in outlays need not trigger a sequester, rescission, or other offsetting action if there it is reasonable to assume that such a "glitch" will be offset naturally in the near-term by normal economic or budgetary fluctuations.

In order to allow for an unexpected shortfall of receipts or an unexpected increase in outlays without triggering a three-fifths debt vote under Section 2, it would be necessary that the actual debt held by the public be held below the debt limit, by a sufficient amount to offset the amount by which actual receipts or outlays may differ from estimated receipts or outlays.

It also should be noted that outlays are both more predictable and more controllable than receipts. Therefore, the handling of outlays necessarily must be held to a stricter standard than the treatment of receipts. To be more specific, of course, is difficult until the actual design of implementation and enforcement legislation emerges. In all cases, the standard to be applied to the accuracy and adjustment of estimates is to be a rule of reason.

Changes from H.J. Res. 290, as introduced:

Section 6 is a new section. It was added to this substitute in part to clarify the role of Congress in the implementation and enforcement of the amendment, in part to require the enactment of such legislation, and in part to clarify that whatever process Congress enacts to enforce this amendment may provide for the use of reasonable estimates.

It is also the intent of this provision to allow the use of a single level of total estimated receipts for a fiscal year, enacted into law at the beginning of the budget process, as the fixed target amount which outlays throughout the fiscal year may not exceed. In other words, Section 6 is intended to allow Congress to enact into law the process of measuring actual outlays against a fixed receipts estimate in the same way that was outlined in H.J. Res. 290 as introduced. Nothing in H.J. Res. 290 as introduced would have prevented Congress from imposing a more stringent process of measuring actual outlays against constantly-updated receipts estimates throughout the fiscal year. Section 6 of the substitute is no more and no less restrictive in this regard.

Section 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

This section makes clear that, for purposes of computing a deficit, balance, or surplus under this amendment, there is no such thing as "off-budget" receipts or outlays. By requiring all cash inflows and outflows to be counted, the most commonly anticipated loopholes are prevented from ever being created. Simple refinancing of outstanding debt at the same net cost of borrowing would not be affected in the normal course of business and, of course, borrowing is not considered a receipt, but rather is recognized as only the means of financing deficit spending.

As currently used and reported, both "receipts" and "outlays" are well-understood, inclusive concepts used with consistency in the budgetary process.

Detailed analysis:

"* * * receipts * * *" is to be interpreted consistently with the use of "Receipts" in Article I, Section 9, Clause 7, which provides, in part, that "a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

The definition of "budget receipts" in A Glossary of Terms Used in the Budget Process (1981), as quoted in S. Rept. 99-162 and S. Rept. 99-163 (committee reports on S.J. Res. 13 and 225, respectively) still applies:

Collections from the public (based on the Government's exercise of its sovereign powers) and from payments by participants in certain voluntary Federal social insurance programs. These collections, also called governmental receipts, consist primarily of tax receipts and social insurance premiums, but also include receipts from court fines, certain licenses, and deposits of earnings by the Federal Reserve Systems. Gifts and contributions (as distinguished from payments for services or cost-sharing deposits by State and local governments) are also counted as budget receipts. Budget receipts are compared with total outlays in calculating the budget surplus or deficit. Excluded from budget receipts are offsetting receipts which are counted as deductions from budget authority and outlays rather than as budget receipts.

"* * * outlays * * *" means all disbursements from the U.S. Treasury, directly or indirectly through federal or quasi-federal agencies created or under the authority of Acts of Congress. The Glossary (as cited above) defines "outlays" as follows:

Obligations are generally liquidated when checks are issued or cash disbursed. Such payments are called outlays. In lieu of issuing checks, obligations may also be liquidated (and outlays occur) by the maturing of interest coupons in the case of some bonds, or by the issuance of bonds or notes (or increases in the redemption value of bonds outstanding). Outlays during a fiscal year may be for payment of obligations incurred in prior years (prior-year outlays) or in the same year. Outlays, therefore, flow in part from unexpected balances of prior-year budget authority and in part from budget authority provided for the year in which the money is spent. Total budget outlays are stated net of offsetting collections, and exclude outlays of off-budget Federal entities. The terms expenditure and net disbursement are frequently used interchangeably with the term outlays.

Glossary defines "budget authority" as:

Authority provided by law to enter into obligations which will result in immediate or future outlays involving Federal Government funds, except that budget authority does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government. The basic forms of budget authority are appropriations, authority to borrow, and contract authority. The latter two types of authority are also commonly referred to as "backdoor authority".

"Expenditures", in fact, also appears in Article I, Section 9, Clause 7 as quoted above, and is used there in symmetry with "Receipts". "Outlays" is used in this Section because of that word's overwhelmingly prevalent use in recent and current budget terminology.

Changes from H.J. Res. 290, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Section 8. This article shall take effect beginning with fiscal year 1998 or with the second fiscal year beginning after its ratification, whichever is later.

By passing this amendment and sending it to the states for ratification, the Congress intends to bind itself, in mutual cooperation with the President, to adopt an orderly deficit reduction plan that will bring the budget into compliance with this amendment no later than fiscal year 1998.

Changes from H.J. Res. 290, as introduced:

The effective date has been moved from fiscal year 1995 or the second fiscal year to fiscal year 1998 or the second fiscal year. This change reflects both the passage of time since H.J. Res. 268, 101st Congress, was considered on the House floor in 1990 (with the fiscal 1995 date) and a realistic, consensus estimate of the time needed to allow for a "glide path" down to a zero deficit.

QUESTIONS AND ANSWERS ABOUT H.J. RES. 290, BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Won't a constitutional requirement of a "balanced budget" simply invite moving some items off-budget?

H.J. Res. 290 does not require that a single document, a "budget," be written in balance. Instead, it deals with actual spending and taxing bills, and how actual outlays conform to estimated receipts. Taking any item "off-budget" would have absolutely no effect on the operation of H.J. Res. 290.

Wouldn't the temptation remain great to commit some other evasion, such as manipulating the definitions of terms used in the BBA?

Terms such as "outlays", "receipts", "debt held by the public", and "raising revenue" either already appear in the Constitution or are commonly understood. In the 99th Congress, Senate Reports 99–162 and 99–163 and Senate floor debate on S.J. Res. 225, and in the 101st Congress, the House floor debate, went to some lengths to establish a legislative history for and preventing misinterpretation of these and other terms as used in a BBA. This year the House Budget Committee compiled a formidable amount of testimony on all sides. It also remains the appropriate role of the Members engaged in floor debate this year to build similarly clear definitions.

Won't the BBA be unenforceable in other ways, causing erosion of respect for other Constitutional provisions as well?

To a certain extent, the provisions of H.J. Res. 290 are self-enforcing or interactively enforcing. Effective enforcement and orderly implementation certainly are expected in the form of enabling legislation; Members such as the Chairman of the Budget Committee have served notice most effectively in that regard. Beyond that, enforcement either is implied by the ramifications of stalemate or inaction or, to a very limited degree, could be obtained in the courts.

The Constitution requires Congress and the President to take the necessary steps to carry out Constitutional mandates. Congress is empowered to make all laws that are "necessary and proper to execute the mandate of the constitution." The President and Members of Congress take only one oath, promising to "preserve, protect and defend the constitution." It is assumed that Congress and the President will monitor each other and to the limits of their authority enforce the provisions of the amendment against the other.

The public will also have a significant role. A breach of the amendments' provisions would be readily apparent, and if a breach occurs a political firestorm very likely would erupt from the public. Public accountability is provided for in the provision that requires any vote to run a deficit to specify which outlays are "excess."

Finally, as a last resort, the judicial branch may act to insure that the Congress and President do not subvert the amendment. A member of Congress or an appropriate Administration official probably would have standing to file suit challenging legislation that subverted the amendment.

Wouldn't H.J. Res. 290 dangerously and inappropriately transfer power to the courts in a whole new area by opening up to court challenge on Constitutional grounds virtually every budgetary decision made by Congress (and the President)?

The courts could make only a limited range of decisions on a limited number of issues. They could invalidate an individual appropriation or tax Act. They could rule as to whether a given Act of Congress or action by the Executive violated the requirements of this amendment. Indeed, a limited role is appropriate: In the words of *Marbury* v. *Madison*, the judiciary has a fundamental obligation to "say what the law is."

But it would be inappropriate for the courts, and it would be inappropriate to call upon the courts, to rewrite budget priorities and fiscal law. Senate Reports 99–162 and 99–163 and the accompanying Senate debate once again provide much guidance, this time as to how the "political question" doctrine of *Baker* vs. *Carr*, 369 U.S. 186 (1962), the requirement to a justicable case or controversy (see e.g., *Aetna Life Insurance Co.* vs. *Haworth*, 300 U.S. 227 (1937), and questions of standing would prevent the floodgates of litigation from opening upon the process in place under a suitable BBA. For example, *Riegle* v. *Federal Open Market Committee*, 656 F.2d 873 (DC Cir. 1981), "counsel[led] the courts to refrain from hearing cases which represent the most obvious intrusion by the judiciary into the legislative arena: challenges concerning congressional action or inaction regarding legislation."

The traditional judicial doctrine of "standing" requires that a plaintiff has a direct and specific, personal stake or injury. A "generalized" or "undifferentiated" public grievance, such as would suggest "taxpayer" standing vis-a-vis macroeconomic policy decisions, is not recognized.

Most questions that will arise as to compliance or enforcement will either be resolved through enabling legislation or will arise during policy-making events that trigger the self-enforcing mechanisms in the BBA (i.e., 3/5 vote to pass an increase the debt that results from a deficit in a given year) or currently in place (i.e., threat of government shutdown if a legislative deadlock persists).

Finally, absolutely no role for the courts is foreseen beyond that of making a determination as to whether an Act of Congress or an Executive action is unconstitutional and a court order not to execute such Act or action. A purely restraining role is anticipated for the courts and could be guaranteed by Congress in appropriate legislation specifying standing, jurisdiction, and remedies.

If the judiciary is involved, couldn't a case drag on for years past the fiscal year in question, making every case moot?

The courts have shown an ability and willingness to expedite their processes in an emergency. Recent examples are the reapportionment cases involving Massachusetts and Montana that went all the way to the Supreme Court and were resolved in a matter of months. Congress could further ensure expeditious handling, for example, giving the Supreme Court exclusive and original jurisdiction over cases arising under the BBA.

What if the President and Congress do not enact necessary legislation required in implementing and enforcing statutes?

Currently, under the Constitution, if Congress fails to make appropriations or provide for further Treasury borrowing the government faces risk of shutdown. We will face the same result if Congress fails to pass necessary legislation required by implementing legislation. Absent the enactment of some other specific procedure, and assuming a deficit situation begins developing in a fiscal year, the amendment obviously implies that responsibility on the part of Congress and the Executive to estimate receipts and monitor outlays on an ongoing basis and to identify the point during the fiscal year at which disbursements simply will have to cease.

In any event, of course, failure to enact legislation or take other positive actions required or implied by this amendment will result in the "train wreck" of an increase in the debt held by the public needing to pass by a three-fifths vote of both Houses.

What if Congress, ignoring the provisions in H.J. Res. 290, nevertheless passes appropriations in excess of estimated revenues?

The general charge that outlays not exceed receipts creates a general obligation for Congress and the Executive to construct a statutory framework to enforce and implement the BBA, in advance of its effective date. Indeed, such legislation would be essential in managing the budget down its "glide path" to an eventual balance. The ultimate form of such legislation could include a revised Gramm-Rudman-Hollings type sequester, an enhanced Pay-as-you-go mechanism, or some other process reforms.

The language of Section 1 also creates an ongoing obligation to monitor outlays and make sure they do not breach the target amount fixed in an estimate of receipts. This does not envision any sort of discretionary "impoundment" power on the part of the President or courts. However, the Executive branch would be under an obligation to estimate whether outlays will occur faster or at higher levels than expected and to notify Congress promptly. If an offsetting rescission is not enacted or other appropriate legislative action not taken, then the President would be bound, at the point at which the government "runs out of money," to stop issuing checks (unless, of course such exigencies already have been accounted for in enforcement and implementation legislation in advance).

The deterrent of a budgetary "train wreck" always exists to motivate responsible budgeting: either the possibility of a government shutdown or of the need to round up ⅗ of both Houses to pass a debt increase bill without any "blackmail amendments." (For example, Gramm-Rudman-Hollings was a "blackmail amendment" attached to a debt ceiling bill in 1985, when 51 Senators refused to pass a "clean" bill.)

What is to prevent Congress and the President from drastically over-estimating revenues and then declaring "oops," when outlays and receipts are unbalanced at the end of the fiscal year?

If such a scenario occurred, Congress would have to pass a debt ceiling increase by a three-fifths vote. The threat of a "train wreck" on the debt limit vote provides a powerful incentive for truth-in-budgeting. Any such mis-estimates will catch up rapidly with its authors within a year. A transparent mis-estimate would be subject to the very public process of budget-making. Congress and the President would avoid a widely publicized "mistake" because of its political impact.

Why is H.J. Res. 290, as introduced, different from previous BBA versions, in that it requires ⅗ vote to raise the limit on federal "debt held by the public", rather than the "public" or "gross" debt?

When the Social Security, and other trust funds run surpluses, those surpluses are invested in U.S. Treasury securities, meaning they are borrowed by the U.S. Treasury and the "public debt" (approximately the same as the "gross federal debt") is increased by that amount. Such borrowing is an intragovernmental transfer between accounts, and does NOT increase the "debt held by the public." Since the intent of the debt limit vote in the BBA is to enforce the amendment and deter deficits, the "debt held by the public" is the closest currently-used and commonly-understood measure of indebtedness that approximates the amount that indebtedness has been increased because of total deficit spending. In other words, H.J. Res. 290 was not meant to "punish" Congress by requiring a difficult ⅗ vote just because trust funds are running a surplus.

If a contracting economy causes a revenue shortfall, wouldn't harmful, pro-cyclical measures, such as cutting spending or raising taxes be required in mid-year?

Not under H.J. Res. 290. This BBA was designed to react flexibly to sudden changes in the economy by establishing the joint receipts estimate as the outlay ceiling for the entire fiscal year. A revenue shortfall would not precipitate any mandatory changes in taxing or spending.

If a contracting economy causes social spending outlays to rise in mid-year, would compensating action be required?

Possibly. Rather than try to anticipate every economic contingency in Constitutional language, the authors of H.J. Res. 290 wrote what they believe remains a sufficiently flexible amendment. Several responses are possible; for example:

(1) Congress can only control what is reasonably controllable. Often, such outlay changes will be sufficiently small that it cannot be determined with reasonable precision that an imbalance will exist at the end of the fiscal year. In such a case, no adjustment would be necessary.

(2) To the extent such outlay increases are foreseeable and fairly certain, a mid-year adjustment might be necessary, relying on offsetting rescissions or other account adjustments, as is the case when a supplemental appropriations must be made deficit-neutral.

(3) If Congress and the President agree that the economic situation warrants outlay levels above the receipts ceiling, achieving a ⅗ majority to approve such spending is not an insurmountable hurdle.

What if a law enacted in the good faith belief which is revenue-neutral turns out to increase revenues?

As with other laws that may be challenged on Constitutional grounds, if it were shown that Congress and the President acted in good faith and had a reasonable basis for projecting revenue-neutrality, the law would not be struck down.

What if a bill provides for both increases and decreases in revenues?

H.J. Res. 290 refers to a "bill to raise revenue." The clear intent is to look to the overall revenue effect of a bill.

What effect would H.J. Res. 290 have if in the process of building a "consensus deficit-reduction bill," revenue increases were combined with spending reductions?

H.J. Res. 290 differs from some previous BBAs in that it does not require a "vote directed solely to that subject" in the case of increasing revenues. Certainly, most of the sponsors of H.J. Res. 290 would not object to such language. However, as currently written, H.J. Res. 290 simply would require the authors and managers of such a combination bill to make a strategic decision as to whether they preferred to offer separate revenue and spending-cut bills or to subject the spending-cut provisions tied to the revenue-raising provisions in a single bill, with a need to pass by a majority of the whole membership.

Couldn't the various super-majority requirements in H.J. Res. 290 thwart the wills of majorities in both Houses and the President?

Yes. Such is also the case with Senate filibusters, Gramm-Rudman-Hollings points of order, and other procedures today. As is the case with all super-majority requirements in the Constitution (or in law), the purpose is to protect the immediate rights of a significant minority, and arguably the long-term rights of the people, against a "tyranny of the majority," a phrase frequently invoked by the nation's Founders.

In the case of H.J. Res. 290, a sufficient structural bias exists for deficit spending and against accountability in tax decisions that compensating super-majority protections are warranted. Moreover, it is noteworthy that the super-majority levels involved are reasonable and modest.

Shouldn't economic policy be kept out of the Constitution?

Economics is politics and vice-versa. Governance inescapably involves addressing questions of economics. Moreover, our Constitution is replete with economic policy. For example, it refers to private property rights; prescribes Congressional (and Executive) roles in federal fiscal activities such as raising revenue, spending, and borrowing; provides for uniform duties, imposts, and excises; discusses the regulation of interstate commerce; discusses the coinage and value of money; and deals with counterfeiting, patents, and but whether it encompasses broad and fundamental principles, its relevance is not transitory, and its importance is far-reaching in scope and over time. The need for a BBA and the proposal of H.J. Res. 290 in response meet this test.

Shouldn't the federal government have the flexibility to enact counter-cyclical economic measures?

Yes, and this flexibility is preserved in H.J. Res. 290 by allowing Congress to spend in excess of revenues if three-fifths of the members agree that deficit spending is warranted. What the amendment would do is mitigate against the structural bias to spend and borrow (and raise taxes somewhat in preference to restraining spending) in good times as well as bad. In restoring this level playing field, H.J. Res. 290 strikes a reasonable balance between requiring fiscal responsibility and allowing flexibility.

Wouldn't adopting a BBA result in cutbacks in services for the poor and needy, for senior citizens, for health and housing programs, and even possibly for defense programs?

The BBA itself would do none of these things. It would force the Executive and Legislative Branches to prioritize within a balance of receipts and outlays and force into the light of day what actual decisions and trade-offs are necessary. If this does not result in cutbacks of government programs, it will ensure that we pay for all the government we want.

Since "the BBA itself would do none of these things," isn't it just a "political free lunch," raising false hopes while diverting attention from the real and difficult budget decisions that need to be made?

Far from that, H.J. Res. 290 would force Congress, the President, and the public to own up to the hard choices that need to be made. It is general because most provisions in the Constitution, encompassing broad principles as they do, should be broadly worded. But its result will be to make unavoidable the asking of those questions some in elective office have avoided: How much government do we want? How willing are we to pay for it? Which programs should be priorities?

Should the Constitution dictate such details as the budgetary period (fiscal year)?

Some such reasonable parameters are necessary to provide for an enforceable amendment. Again, the authors are receptive to perfecting changes, although it is important that whatever parameter is used is not susceptible to subterfuge (e.g., merely including a term like "fiscal period" to be defined in statute). Senate Reports 99-162 and 99-163 suggested using "fiscal year," but allowed that a reasonable statutory re-definition could include a biennial "year."

Doesn't H.J. Res. 290 imply that the President would have enhanced powers to block spending based on a pretext of unconstitutionality?

A frequent criticism of previous BBA proposals has been that the President is not brought into the budget process sufficiently to share the responsibility of governing and the blame of impasse, although the President can criticize the Congress that "holds the purse strings." H.J. Res. 290 recognizes the accepted role the President has played under statute since the 1920s, by requiring the President to submit a balanced budget. The President must also share fiscal and political responsibility with Congress for H.J. Res. 290's joint receipts estimate. But beyond the role in that new joint estimate H.J. Res. 290 does not broaden in any way the powers of the President. On the other hand, it does make the President more accountable for how the budget process proceeds.

Why do so many economic analyses project devastating results under a BBA?

Those that do generally assume either (1) that a balanced budget would be imposed immediately, without transition, or (2) that the requirement for balance will be adhered to without exception and that Congress (and the President in his or her recommendations) will not exercise its perrogatives under a flexible amendment to enact counter-cyclical measures.

This amendment will not go into effect until, at the earliest, two years after ratification. Once passed through both houses, we would hope that Congress would recognize the impending deadline and act to meet that date by which the budget must be balanced. By allowing a multi-year phase in, we believe any such "drastic" economic effects would be diminished, if not erased.

This amendment has the flexibility to address economic emergencies through the 3/5 release vote on balancing the budget. This allows Congress and the President to act in response to circumstances such as a recession or some other emergency, while insuring that such a decision is made in a fiscally responsible manner.

Of what use is a BBA in today's atmosphere of impending fiscal crisis, if it won't be in force for several years?

(1) A BBA is a long-term proposition. It should be adopted because it is a valid response to a long-term and structurally inherent problem.

(2) It's long-term nature not withstanding, even a BBA that is not in effect for several years will prompt deficit-reduction actions in anticipation of its being in place. Therefore, submission of the amendment to the states would stimulate an immediate response in federal fiscal behavior.

QUESTIONS, ANSWERS, AND RESPONSES BY HON. CHARLES W. STENHOLM TO THE STATEMENT OF ALAN MORRISON OF PUBLIC CITIZEN

Mr. Morrison, you conclude your testimony by stating, "if my testimony has frightened you, that was my intent in giving it." I think you will find that, like me, most Members of Congress find the specter of a $4 trillion debt far more terrifying than anything in your testimony. The vision of what we are doing to our children and grandchildren is much more disturbing and frightening.

We believe that the primary purpose of the United States Constitution is for the protection of the rights of U.S. citizens. Unfortunately, when it comes to fiscal matters, the Congress and the President have not protected the rights of our youngest and yet-to-be-born citizens. That is why we look to the Constitution now.

As I read your testimony, it seemed to me that you included a few red herrings, a few things on which reasonable people can disagree, but very few suggestions for things which we can fix within the amendment.

You have expressed your personal legal opinion about the ultimate consequences of what the amendment would be, vis-a-vis the courts. Other competent legal opinions abound. For example, John C. Armor, Adjunct scholar for Constitutional Studies at the American Legislative Exchange Council has written, "My view is the Court would probably use standard, Declaratory Judgment powers all federal courts now have, to state whether a budget is in excess. If so, it would strike it down, leaving the cure of the problem to Congress."

The point here is that no one should be misled: there are multiple opinions on the Constitutional questions involved here.

I appreciate your comments and believe you have very sincere and deeply felt reasons for arriving at the bottom line which you deliver at the end of your [prepared] statement: That "the Balanced Budget Constitutional Amendment is a terrible idea." I believe that this bottom line, understandably, is what has determined the rest of your statement.

We in the legislating business understand just as well as you in the litigating business the tactic of trying to kill a proposition you oppose by attempting to question it to death. I am disappointed that your statement contains virtually nothing but questions. That's kind of the easy way out. I think a detached scholar would have supplied some of both, questions and answers. And those of us who have worked for years in support of the Balanced Budget Amendment realize it is our responsibility to make sure the answers are available.

Mr. Morrison, these volumes I'm holding up are just some of the reports that the Senate Judiciary Committee has issued over the years on such an amendment. We have had a little more difficult time over here in the House establishing legislative history, since we have had to do so almost exclusively from the Floor, in a limited amount of time, and only on two occasions. Nevertheless, we have built a considerable record. This clipped stack of papers is a copy of the House's October 1, 1982 debate on a balanced budget amendment. And here I am holding up the 1992 Senate debate. Next, I have the July 17, 1990 Congressional Record containing that day's debate on H.J. Res. 268, the predecessor to this year's H.J. Res. 290. Finally, this collection represents several days of Senate Floor debate in 1986.

I hold up these exhibits for a simple reason: Of all the skeptical questions I have heard raised in these hearings, there are answers. Most of them have been answered thoroughly and exhaustively in these documents and debates. The folks who have come in here and asked, "What's the definition of an 'outlay'?" or, "Aren't we worried about the courts writing budgets?" just haven't read these materials. These and other questions have already been answered.

I don't want to take up an extreme amount of time here, today, Mr. Chairman, but I do make the commitment that I and my staff will make sure that, prior to and during Floor debate, we will refer to, reproduce, and augment the legislative record that already has been built so that the House produces a clear and sufficient record for our amendment.

This hearing is supposed to focus on the operation and enforcement of the amendment. First, I want to emphasize—and I can't emphasize it strongly enough—when ratified, this Constitutional amendment will not be operating in a vacuum. There will be implementing and enforcing legislation. The Chairman and I have a slight difference as to timing, but there will be follow-up legislation.

Implementing legislation is the usual and appropriate place to work out procedural details. We've spent 125 years writing implementing legislation for the 13th, 14th, and 15th Amendments, the Civil Rights Amendments that followed in the wake of the Civil War. Many think we haven't finished writing such legislation. We've spent 89 years writing implementing legislation for the 16th Amendment, authorizing a federal income tax, with no end in sight.

The earliest our amendment is likely to take effect is fiscal 1997. That gives us adequate time to carefully and thoroughly write and consider implementing and enforcing legislation—and to bring the President to the table in that process, as well. From the Budget act of 1974 to Gramm-Rudman-Hollings I, II, and III, to the 1990 Budget Enforcement Act, we've seen that months of negotiation and attention to detail is necessary to write any major budget process legislation.

But a Constitutional amendment is different from that legislation. It's supposed to be a framework. Its language is supposed to be elegantly simple. But it has to be adequately and completely enough formulated to be enforceable and practicable.

This is one of the main reasons we have so much legislative history. Over the last five years, I've worked with our former House colleague Larry Craig and current colleagues Bob Smith, Tom Carper, Olympia Snowe, Jim Moody, and others, to comb through that legislative record, to listen to the questions and criticisms, and to come up with an amendment that is brief enough but complete enough to belong in the Constitution, tough enough but flexible enough to stand the test of time.

Once we as a Congress have decided to put ourselves in this particular box, requiring us and the President to balance outlays and receipts, then we can figure out how to work within the confines of that box.

Now, I do want to address specifically some of the points you have raised today, Mr. Morrison.

Let's go right to the question of court enforcement, first. There are numerous court precedents that limit a party's "standing" to bring cases into federal courts, especially in areas where the courts traditionally have deferred to the elective branches in their Constitutional role of making "political decisions", and in cases where there is only a "generalized grievance * * * common to all members of the public" (U.S. v. Richardson, 418 U.S. 166, 177, 179–80 (1974)). The court has an obligation to "say what the law is" (Marbury v. Madison, 1 Cranch, 137, 177 (1803)), but it also consistently has preferred to prescribing the least intrusive remedy that the law requires.

Under our amendment, and assuming for the moment that Congress does not further legislate on the court issue, the court would be limited to finding individual Acts of Congress unconstitutional and to restraining the Executive from some action or activity.

But, going back to that assumption I just mentioned: The Congress can, through legislation, confer, deny, or limit court jurisdiction over cases arising under this amendment. The Congress can, through statute, confer or deny standing. The Congress can say what—if any—specific remedies a court could apply. The Congress can provide for expedited adjudication. I think it's appropriate—and good—for the relevant committees of jurisdiction to sit down after H.J. Res. 290 goes out to the states for ratification and go over the role of the courts in detail.

However, there are two additional, major reasons that I feel the courts will virtually never be called upon to resolve questions arising under this amendment.

The first is that implementing, procedural legislation will be enacted to handle the details of how to operate under, and enforce the amendment. We may have Gramm-Rudman-Hollings IV or V, we may have Son-of-Budget Enforcement Act, or we may have something new and different. But Congress—with some input from the President—will decide whether there's a sequester, what programs will be priorities, and how spending caps will be complied with.

Second, the principal sponsors of H.J. Res. 290 have spent years listening to comments such as yours and others. We have built on and refined earlier proposals and have included two provisions in H.J. Res. 290 that will help make it self-enforcing.

The first self-enforcing provision is the requirement that a receipts estimate be enacted as a prerequisite for the rest of the budget process to go forward. You and others have correctly guessed what happens if no receipts estimate is enacted: The same thing as happens under current law if Congress and the President fail to agree on spending levels or if the debt limit were not raised on schedule: The government shuts down. If outlays can not exceed estimated receipts, and receipts have not been estimated, then outlays can not go forward, except by the ⅗ vote the amendment allows to spend in excess of estimated receipts.

You, and others, have raised the question, "What if Congress routinely gets in the habit of providing for excess outlays by a ⅗ vote year after year after year?"

My answer to that is simple: If the government habitually waives the amendment, then there really is no hope for our children's economic future. But that is the direction in which we are headed under the current system. At least the Balanced Budget Amendment would make it harder to run those deficits and would hold the nation's

elected officials fully and publicly accountable.

Incidentally, you and others have raised a valid complaint about the word "agree" in our amendment. Obviously, our intent is to require enactment of a law establishing a receipts estimate. Those are the words in our amendment that already have meaning under the Constitution. But I will talk to my other principal sponsors, and I think we can offer a technical amendment to clarify the confusion caused by requiring the President and Congress to "agree."

The second self-enforcement mechanism in our amendment is the ⅗ vote requirement for increasing the limit on debt held by the public. Such a vote will be unnecessary if we balance the budget every year. Such a vote will serve as a significant deterrent to gaming the system or to using a Rosy Scenario receipts estimate. The debt limit vote operates especially as a motivator on precisely those most responsible for managing the budget process: The Congressional Leadership and the President, since these principals are always those most concerned about any debt limit votes.

One final point: I find more than a little surprising your assertion that parties will sue, as a result of enforcement of this amendment, for more spending. I don't see how the court could order the Congress or the President to violate the Constitution to fulfill some obligation that doesn't already exist pursuant to another Constitutional mandate.

I don't want to put you on the spot this moment, but if you can find a Supreme Court case in which the government was forced to spend to provide a benefit which, by law, it had decided not to provide, I would appreciate it if you could share that case with my staff so that we can avoid any misunderstandings or misinterpretations when we build our legislative record.

Ms. PELOSI. Mr. Chairman, I rise in support of H.R. 5260, legislation to extend the current emergency unemployment compensation program. This bill would provide up to 26 weeks of additional unemployment benefits to workers who exhaust their regular State unemployment benefits after June 13, 1992. This bill also modifies the permanent extended benefits program to facilitate making future benefits available during high unemployment periods.

The millions of people who are still unemployed would strongly disagree with the President's statements that the current economic downturn has improved. In May, the number of unemployed persons increased by 349,000 to 9.5 million, raising the unemployment rate to 7.5 percent. This is the highest unemployment rate American workers have faced since August 1984. The President tells us not to worry because this increase is largely explained by school kids trying to find summer jobs, however 3.4 million of these individuals have been out of work for more than 15 weeks, the highest level since November 1983. And, most of this increase is accounted for by the 2 million persons who have been out of work for more than 6 months.

Mr. Chairman, the Congressional Budget Office projects only a modest recovery in the second half of this year. Now is not the time to cede our good judgment to statistical economic indicators and turn our backs on individuals who are unable to find jobs. Unless this legislation is enacted, the current temporary extended benefits program will expire July 4. Mr. Chairman, having their unemployment benefits pulled out from under them is not the way for this country's unemployed workers to commemorate America's Independence Day.

Mr. BROOMFIELD. Mr. Chairman, I want to express my strong support for House Joint Resolution 290, the balanced budget amendment.

I have served in this body for 36 years, and I cannot recall a time when Congress has been held in lower esteem by the American people.

We wring our hands when it comes to dealing with the problems that concern them, be it health care, the banking system, or even the recession.

But that doesn't stop us from spending their money—and spending their children's money as we run unprecedented deficits year in and year out.

Today, we have an opportunity to change the harsh judgment that is being brought to bear against the 102d Congress.

If we are willing to put politics aside and do what's right for America, this Congress could be remembered as the Congress that finally put an end to this sea of red ink that is threatening to bankrupt our Nation.

As I prepare to retire, I am often asked What is the most important vote you have cast in Congress?

During my career, I have cast many historic votes.

I voted for the landmark Civil Rights Act of 1964.

I supported the Jackson-Vanik amendment that demanded that the Soviet Union respect the human rights of its citizens if it was going to get most-favored-nation trading status from the United States.

And I helped pass the legislation that gave the President the authorization he needed to stand up to Saddam Hussein in the Persian Gulf.

But today's vote, if it is successful, may well overshadow all these.

I don't take the decision to amend our Constitution lightly. Nor do I kid myself that a constitutional amendment will instantly make all our budget problems disappear.

But a balanced budget amendment will take away the congressional charge card and accomplish what nothing else has succeeded in doing since I arrived here 36 years ago—it will force Congress to make the hard choices.

Making decisions is exactly what our constituents sent us here to do. Instead, we have become expert at avoiding them.

At what price? A national debt that is going to top $4 trillion. Interest payments alone consume 62 cents of your personal income tax dollars.

And your children's taxes.

I have four young grandchildren. I want them to be able to enjoy the fruits of their labor, not hand them over to Uncle Sam to pay the bills we have left them.

I urge my colleagues to stop mortgaging the future. Pass the balanced budget amendment today and send it to the States for ratification and we will leave a legacy to be proud of.

Mr. CONDIT. Mr. Chairman, I rise today in support of House Joint Resolution 290, the Stenholm proposal for a constitutional amendment to require a balanced Federal budget. I do not take this position lightly. We should not trifle with our Constitution. But, as we have seen in recent years, our political institutions have failed to come to grips with the financial bankruptcy of our Nation.

Mr. Chairman, in 1992, the U.S. Government will spend more money it doesn't have than any time in the history of our Nation. Never before, in time of world war or great depression, has our Government's budget fallen so far into the red. In just the last 10 years, our national debt has tripled—and now approaches $4 trillion.

What does this mean in real terms?

Our National Government, in this next fiscal year, will be spending more to pay debt service than any other item in the Federal budget—including defense, Social Security, and Medicare.

Were it not for this debt service obligation, we would have $300 billion available to help balance the budget, pay for comprehensive national health care, enact a middle class tax cut, or provide aid to our cities and counties.

We add over $1 billion to the national debt every day.

For every $200 billion we add to the debt, we obligate our children to pay an additional $7,000 in taxes for interest costs alone over their lives as taxpayers.

There is no easy solution to this problem. Any politician who suggests that a solution can be painless or who suggests a solution is not necessary is lying to the American people. I believe that we have only one option: We must bite the bullet and make the tough choices. The only way that discipline can be imposed on both the President and the Congress is for the adoption of a constitutional amendment mandating a balanced Federal budget. Short of that, I am afraid, will spell the economic doom of this Nation. I urge my fellow colleagues to support House Joint Resolution 290.

Ms. OAKAR. Mr. Chairman, I rise today out of concern that once again, a concerted effort is underway to attack the benefits of our Nation's Social Security, civil service, military, veterans, and railroad retirees. I am pleased to have the opportunity to support the distinguished majority leader's amendment to legislation establishing a constitutional requirement for a balanced budget. This amendment deals honestly with the American public on how we consider the Social Security trust fund in the context of the Federal budget. I worked hard alongside my colleague, the gentleman from North Dakota, [Mr. DORGAN], to ensure off budget status of the Social Security trust funds. Social Security is a trust—a promise to our people of financial security in retirement. If the Congress has really taken Social Security off budget, as we promised the American people in the last Congress, there is no good reason that trust fund should be a part of this discussion.

For too many retired Americans, two-thirds of whom are women, Social Security means the difference between poverty and just getting by. Yet Social Security is not a handout, it is their money. By the same token, a cost-of-living adjustment is not some kind of extra benefit, an annual COLA holds the line and protects the value of these fixed incomes. A one time elimination of the COLA will imme-

diately push at least 160,000 Americans below the Federal poverty line.

Mr. Chairman, we must ensure that the Social Security trust fund is protected from would-be raiders. For the very same reason, we must go one step further to protect Federal, military, veterans, and railroad retiree benefits from the potential chopping block, as well. I believe our Nation must move toward a balanced budget. Yet, without continued vigilance, the end result of the required across-the-board cuts could mean an 11-percent reduction in these retirees' income. To make my point clear, today I will reintroduce cost of living adjustment equity legislation for all Federal annuitants. This legislation ensures that all Federal annuitants are guaranteed a full cost-of-living adjustment next year, including Social Security, veterans, military, railroad, and civil service annuitants. In the 101st Congress I introduced a similar bill, which attracted almost 370 cosponsors. I hope that all of my colleagues will join with me, once more, in support of retirement security for all Federal annuitants.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to House Joint Resolution 290 and urge my colleagues to vote down this misguided attempt at reducing our burgeoning deficit.

First let me say that I certainly agree with the basic principle of what we are debating today, namely, that our budget process is in desperate need of reform and that the tremendous budget deficit and Federal debt are placing a ball and chain around the leg of each and every one of our children. A decade of living the fiscal high-life by the Federal Government during the 1980's has produced more red ink than all of the previous 200 years of our history combined. The deficit inhibits our economy, stifles growth, and forces our Government to operate under extraordinary constraints. I am, however, saddened that we have found it necessary to come to this point of actually putting our Nation's fiscal policy within the body of our Constitution. Now I'm not a constitutional scholar, but I do know that amending the most basic document of our democracy is something that should be based on reason and facts, not hysteria generated by public opinion polls and election year politics.

Yesterday we had the opportunity to vote on a proposal, which I supported, to write into law a balanced budget statute. This measure would have required the President to do something George Bush or Ronald Reagan never did—submit a balanced budget to the Congress—by 1998. Unlike the amendment, the statutory approach would have taken effect in fiscal year 1994, rather than circulating among the States for the next 4 or 5 years, where ratification is far from guaranteed. Furthermore, it would have provided for a gentle transition into a balanced budget without affecting Social Security. But with a Ross Perot-like fanaticism, many of my colleagues have latched on to this untested, unproven constitutional amendment, regardless of the possible consequences, in the hope that it will somehow painlessly put our country back on the right track to fiscal responsibility.

What troubles me, Mr. Chairman, is that I don't think they or the people really realize what it is going to mean to have to cut $400 billion from the Federal budget. "Let's have a balanced budget," sounds great; but it's where this money is going to come from that scares me. Those who are the most vocal supporters of this motion claim that it will not affect Social Security or Medicare. Inasmuch as the President has said that he will not cut defense any more than it has already been cut and certainly will not raise taxes, and inasmuch as we certainly can't stop paying the interest on our astronomical debt, that doesn't leave a whole lot of Government spending to cut or revenue generating options to fall back on. Yet somehow this amendment is being touted as the magic snake oil which is going to suddenly cut through the Washington gridlock and instill us all with a sense of bipartisan cooperation and brotherhood. And if you believe that I have a Ouija board to sell you.

The rhetoric is indeed confusing, Mr. Chairman. When one hears the President speaking of his massive urban renewal plan in one breath, but speaking of a balanced budget amendment in another, you have to wonder how he intends to pull it off. The two are not complimentary objectives. Clearly, as a Member from an urban congressional district, I have serious concerns over the possible effects of broad, across-the-board budget cuts. Many of my constituents depend on the Federal Government for the barest essentials of life: housing, food, health care. And with the classic circle of poverty showing little sign of abating, the results of Federal austerity could be tragic.

In this election year many of my colleagues are likely to support House Joint Resolution 290 for purely political advantage. But what will those who do tell your constituents when the real cuts are going to have to be made. Few of you who embrace Stenholm expressed a willingness to raise taxes on the rich. And I haven't heard you say much about the fact that entitlements will have to be scaled back. Earlier today, I heard one of my colleagues extolling the virtues of the American dairy industry. I wonder if that Member will be willing to cut dairy subsidies to his State in order to help cut the deficit. And what about Members who represent the farmers? Will they be willing to open up the 1990 farm bill to look for unnecessary spending within these programs? I do not know what you will do in such cases but I do know that all of us better be prepared to have our favorite Federal program come under the scrutiny of this balanced budget amendment.

When most Americans think of Federal spending, they generally only think about welfare, food stamps, and housing programs, or that, frankly, Federal spending plays no role in their life. They forget that the Federal Government spends money on highways, bridges, food safety, crime fighting, national parks, and allocates billions of dollars to help keep your local taxes lower. Each and every one of these and all other Federal programs will be affected.

Mr. Chairman, we already have the necessary tools in place to help fight runaway spending, but unfortunately we seem to collectively lack the intestinal fortitude to implement them. Even if this measure passes, legislation will still have to be passed to give this amendment the appropriate mechanisms to cut the deficit. rather than looking to the Constitution, I think we should be looking at ourselves and our individual determination, or lack thereof as the case may be, to balance the budget. Mr. Chairman, this legislation, well intentional though it may be, is pure and simple window dressing and I urge my colleagues to vote "no" on House Joint Resolution 290.

Mr. KANJORSKI. Mr. Chairman, although I strongly support efforts to reduce the Federal deficit, and believe that reducing the Federal deficit must be a top national priority, I cannot in good conscience vote for House Joint Resolution 290, the so-called balanced budget amendment. I welcome this opportunity to explain my vote.

On January 3, 1991, I along with every other Member of the 102d Congress, swore a sacred oath to "support and defend the Constitution of the United States against all enemies, foreign and domestic."

The so-called balanced budget amendment is the biggest domestic assault on the Constitution of the United States since the Civil War. It is a classic example of the old adage that the ends, no matter how worthy, do not always justify the means.

The balanced budget amendment is fatally flawed in four ways. It promises more than it can deliver. It is based on a fundamental misunderstanding of Federal and State budgets. If it does work, its consequences will be devastating for average working families and senior citizens on fixed incomes, as well as for the economy as a whole. And it is constitutionally unsound.

I will elaborate on the four fatal flaws of the so-called balanced budget amendment, describe the possible calamitous consequences of its enactment, particularly in northeastern and central Pennsylvania, provide the analysis of noted economists and businessmen on it, and then offer my own constructive alternative to reduce the budget deficit.

THE AMENDMENT PROMISES MORE THAN IT CAN DELIVER

Dr. Robert D. Reischauer, the Director of the Congressional Budget Office, has described the so-called balance budget amendment as:

> Another empty promise, one that further erodes public confidence in our political institutions. * * * A balanced budget amendment, in and of itself, is not a solution. * * * In this election year, it would be a cruel hoax to suggest to the American public that one more procedural promise in the form of a constitutional amendment is going to get the job done.

Nothing in the amendment describes how the budget is to be balanced, what programs should be cut, and what taxes should be raised. It is not a self-fulfilling prophecy.

Adopting an amendment which says that the budget is to be balanced does not make it so, any more than adopting an amendment saying that the Earth is flat would make it flat.

The truth is that balancing the budget requires tough decisions on specific programs and specific taxes. It requires tough decisions which no President has been willing to make for several decades. Despite all the balanced budget rhetoric that we have heard from this President and his predecessor, neither one has proposed even a single balanced budget over the last 12 years.

The amendment is a political ploy designed to make politicians look good while actually making no difficult or painful decisions. It is a veritable fig leaf created to give its proponents cover until after the next election.

Dr. Lawrence Chimerine, senior economic counselor and DRI/McGraw-Hill fellow at the highly regarded Economic Strategy Institute, summed up the so-called balanced budget amendment as follows:

In my judgment, it is simply another gimmick like * * * Gramm-Rudman. * * * It will not only be an ineffective tool in dealing with the problem, but in my view is simply a way to attempt to avoid what will be difficult choices.

It is likely to encourage even more use of optimistic forecasts, program underestimation, moving programs off-budget, and other similar techniques in order to avoid the tough decisions that will need to be made to actually balance the budget. Thus, the balanced budget amendment has the potential of making the budget process even more flawed than it was in the 1980's.

* * * adoption of a Federal balanced budget amendment would create a tendency to increase the amount of off budgeting and other budgetary gimmicks. Since we're already had 12 years of this, this would be a very undesirable result.

THE AMENDMENT IS BASED ON A MISUNDERSTANDING OF FEDERAL AND STATE BUDGETS

I frequently hear the complaint, "I have to balance my budget. State and local governments have to balance their budgets. Why is the Federal Government unable to balance its budget?"

The short answer is that the Federal Government uses a stricter set of accounting rules than State and local governments, businesses, and household.

The Federal Government uses what is called a unified budget in which all expenses, revenues, and assets are listed on one ledger sheet. State and local governments, as well as most businesses and households, however, have two separate budgets: an operating budget for day-to-day expenses, and a separate capital budget for investments in assets which will continue to have a value at the end of this fiscal year.

For State and local governments, examples of operating expenses are salaries for municipal employees and teachers, welfare payments, and the cost of garbage collection. State and local capital expenditures include roads, sewer and water systems, school buildings, prisons and dike systems.

For businesses, operating expenses include employee labor costs, and the cost of parts and raw materials. Capital expenses include the cost of new plant and equipment, and the development of new products and production methods.

For households, operating expenses include food, clothing, and medical care. Capital expenses include home, car, and furniture costs.

If State and local governments, businesses, and households were measured using the stricter "unified" budget standard used by the Federal Government, none of them would have balanced budgets.

State and local governments, businesses, and households all borrow money for capital expenditures, and often even for operating expenses. Thus, like the Federal Government, they are all technically in debt.

If you own a home, and have a home loan, you are in debt. If you own a car, and have a car loan, you are in debt. If you have an outstanding credit card balance because you purchased furniture or took a vacation, you are in debt. Many people are continuously in debt from the day they become old enough to sign a loan agreement, to the day they die.

Debt, in and of itself, is not necessarily bad if a government, a business, or a household has assets, or collateral, to back up that debt.

Your house stands behind your home loan, your car behind your car loan. A plant or purchase commitments stand behind commercial loans. Physical assets such as schools, prisons, roads, and sewer systems stand behind State and local bond issues.

Much of what the Federal Government purchases each year has similar value. It is just that under the Federal Government's stricter accounting standards, it does not get credit for the value of these assets on its books, the way that State and local governments, businesses, and households do.

Each year the Federal Government spends hundreds of billions of dollars on items which retain value long after the end of the fiscal year. It buys ships, planes, and weapons for the Defense Department. It builds highways and airports. It funds community development and builds housing for senior citizens. It funds water and sewage system construction projects, finances industrial development, dredges waterways, and cleans up hazardous wastesites. It also has vast holdings of land with a virtually incalculable worth.

Stephen D. Gold, the Director of the Center for the Study of the States has written that:

The experience of the states does not buttress the case for a federal balanced budget amendment. * * * It is naive to believe that since states balance their budgets, the Federal Government should be able to so as well. States do not always balance their budgets. Many states avoid deficits only by using funds carried over from previous years or by relying on gimmicks that often represent unsound policy.

California is probably the state that has the greatest similarity to the fiscal predicament of the federal government. Despite a balanced budget requirement, a relatively strict limitation on state spending passed in 1979 and Proposition 13, it has had deficits three times in the past decade (in 1983, 1988 and 1991). Another enormous deficit is inevitable this year. $9 billion is a good estimate of its size. * * * no cure for the deficit is in sight. The state credit rating was reduced last year, and another reduction is probable before long. California's predicament clearly shows that a balanced budget provision is no panacea. In fact, at present it seems almost an irrelevancy.

A study by the CATO Institute, a very conservative think tank, revealed that State and local governments have created more than 25,000 off-budget entities which tax and spend outside the normal budget process. According to Roy Ash, Budget Director under Presidents Nixon and Ford:

These account for hundreds of billions of dollars of ever growing debt even while states live with constitutionally mandated balanced budgets.

Dr. Louis Fisher of the Library of Congress notes that this proliferation of special State and local budget entities has the additional disadvantage of fragmenting State and local governments and weakening accountability to citizens, thus further undermining public confidence in Government.

A 1985 study by the independent, nonpartisan, General Accounting Office, pointed out that in some States the percentage of funds covered by balanced budget requirements was as low as 46 percent of total expenditures, and in no State was it more than 66 percent of total expenditures.

If you applied the same 34 to 54 percent discount to the Federal budget, it would also be in surplus.

Similarly, in the past, debt backed by the full faith and credit of State and local governments made up almost all of State and local borrowing. Today, full faith and credit debt makes up less than a third of all State and local borrowing, and debt incurred by special districts and authorities makes up more than two-thirds of all State and local borrowing.

Even the President's own Office of Management and Budget estimates that more than $256 billion of this year's budget is for capital expenditures. If that $256 billion worth of expenditures—and the interest associated with previous years' expenditures for capital assets—was in a separate capital budget, the Federal Government's operating budget would look very different.

When comparing the fiscal health of the Federal Government with the fiscal health of State and local governments, businesses, or households, it is important to use identical measuring sticks so that you are comparing apples to apples, rather than apples to oranges. If the Federal Government had to liquidate its holdings, and pay off all of its debt today, as individuals do when they die, and as businesses do when they go out of business, the Federal Government would have more than enough assets to pay off all of its debt.

IF THE AMENDMENT DOES WORK, THE CONSEQUENCES WILL BE DEVASTATING FOR NORTHEASTERN AND CENTRAL PENNSYLVANIA, AND FOR OUR NATIONAL ECONOMY

If we assume that the amendment is effective, its implementation will be devastating for average working families, senior citizens living on fixed incomes, and for the economy of our Nation and region.

In the upcoming fiscal year, 1993, the budget for the Federal Government is estimated to be as follows:

Outlays, $1,500 billion.

Revenues, $1,173 billion.

Deficit, $327 billion.

Of our total $1,500 billion in outlays, $214 billion is for interest on the national debt, an item which cannot be cut. Outlays for all other expenses thus total $1,286.

If we want to balance the budget by cutting all programs equally, including such vital programs as Social Security, Medicare, and veterans' benefits, then we have to cut $327 billion out of a total of $1,286 billion.

That is almost exactly a 25 percent cut in every program, popular and unpopular, vital and expendable, alike.

Imagine the impact in our area of a 25-percent cut in every program the Federal Government operates. Imagine telling senior citizens that instead of getting a cost-of-living adjustment [COLA] this year their benefits are going

to be cut by 25 percent. Imagine telling them that their Medicare costs are also increasing by 25 percent.

In just Pennsylvania's 11th Congressional District alone in fiscal year 1990—the most recent year for which data is available—senior citizens received more than $539,668,407 in Social Security benefits. Medicare benefits totaled $315,905,880. VA compensation and pensions totaled an additional $53,923,317. The Black Lung Compensation Program provided $108,943,333 in benefits to retired mine workers, their survivors and dependents.

A 25-percent cut in these programs would reduce the income of senior citizens in northeastern and central Pennsylvania by $254,610,234. And remember, this figure is low because the data is almost 3 years old.

A $250 million dollar cut in Federal spending in the 11th Congressional District for just these 4 programs is roughly equivalent to laying-off all of the employees of the 10 largest private employers in our district. Imagine the devastating impact of layoffs that large.

We also have to remember that in addition to the hardships which cuts of this magnitude will impose on senior citizens, there is an additional ripple effect because these individuals will have to reduce their expenditures for food, shelter, clothing and other necessities of life. This will hurt many other necessities of life. This will hurt many other local businesses, and result in increased unemployment and business bankruptcies.

Families USA estimates that the average Pennsylvania senior citizen would lose at least $1,873 a year in Social Security and Medicare benefits if the amendment is passed. Statewide, senior citizens would lose more than $4.2 billion dollars a year. Ron Pollack, the executive director of Families USA says, "That would be like cutting off Social Security checks 2 weeks before Thankgiving and not starting them up again until a week after Christmas." Pollack added, "President Bush's constitutional budget amendment is like a dagger aimed at the heart of Medicare."

In fiscal year 1990 the Federal Government spent over $3,713,922,334 in the 11th Congressional District. A 25-percent across-the-board cut would remove $928,480,583 from our local economy. The ripple effect will magnify the impact of these cuts by more than 100 percent.

A $928 million cut in Federal spending in the 11th Congressional District is roughly the equivalent of laying-off all of the employees of the 25 largest private employers in the district.

Let us assume, as many do, that Social Security, Medicare, and veterans benefits are too popular to be cut by 25 percent and that the most that will happen is that their funding will be frozen, that is no COLA's.

Funding for these three programs totals $469 billion. If we subtract $469 billion and the $214 billion payment for interest on the national debt from our total outlays, all that remains is $817 billion.

In order to balance the budget we then need to cut $327 billion from a total of $817 billion. That is almost exactly a 40-percent across-the-board cut in every Federal program.

What does that mean? To begin with, it means a 40-percent cut in the $108,943,333 our district receives in black lung compensation. That is a $43,577,333 cut. Since relatively few areas of the country benefit from the Black Lung Compensation Program, we cannot assume that it will be immune from budget cuts. In fact, it is a likely candidate for complete elimination.

This also means a 40-percent cut in defense spending. And 40-percent cuts in the FBI, the Drug Enforcement Administration, air traffic control, medical research, student loans, Head Start, food and drug inspection, environmental cleanups and regulation, school lunches, flood protection, job training, unemployment compensation, and economic development.

Overall it means $1.2 billion less will be spent in the 11th Congressional District, and thus more layoffs and more business bankruptcies, particularly when we take into account the multiplier effect.

But President Bush tells us he will veto any bill that cuts that much from the defense budget. He insists that we spend at least $296 billion on defense.

To date, the Congress has not overridden even one of President Bush's vetoes because overriding a veto takes a two-thirds majority. That means that if President Bush insists on spending $296 billion for defense, he will probably get his way.

If we subtract President Bush's $296 billion in defense spending from the outlays we are allowed to cut, then we must cut $327 billion form a remaining budget of only $521 billion. That would require a 63-percent across-the-board cut in all of the programs listed above.

In the Black Lung Program alone, that means a $68,634,300 cut in our congressional district.

Overall it means $1.9 billion less will be spent in the 11th Congressional District, and thus even more layoffs and even more business bankruptcies, particularly when the multiplier effect is taken into account.

Wharton Econometrics, one of the Nation's most prestigious economic forecasting firms, predicts that in just the first year after the amendment goes into effect, Pennsylvania will lose 176,000 jobs and suffer a loss of $31.6 billion in personal income if the amendment is adopted. These are consequences we cannot afford.

THE AMENDMENT IS CONSTITUTIONALLY UNSOUND

The Constitution is the lifeblood of our democracy. It is not a document with which to trifle. Since it was drafted two centuries ago, it has been amended only 27 times. When you consider that the first 10 amendments, the Bill of Rights, were adopted almost immediately after ratification, the Constitution has been amended only 17 times in 200 years. That is an average of less than once a decade.

Mr. Roy L. Ash, the president of Litton Industries, a Fortune 500 company, and the Director of the Office of Management and Budget under both Presidents Nixon and Ford summed up the constitutional argument against the so-called balanced budget amendment quite succinctly:

> The Constitution is not a trivial document. It's meant to be binding, in a very serious way. The other side of the coin is that it articulates citizen rights. Under the amendment proposed, Federal taxing, spending, and even bookkeeping would be subject to challenge, in the courts, by any citizen of standing who could assert his own idea of how the books should have been kept and how taxing and spending should have been conducted. Do we want the Federal courts to be our fiscal policy makers too? And establish our bookkeeping rules?

We have already seen in a number of cities what happens when the Federal courts take over local school districts. We also know what has happened in the telecommunications field when a Federal judge attempted to micromanage an entire industry. Neither has been very successful. Both have outraged the public. Yet these takeovers will pale in comparison to what will happen when unelected Federal judges, with life tenure, attempt to set budgetary policy.

Massive judicial involvement is inevitable because the terms of the proposed amendment are vague and subject to multiple interpretations. And there is no way to definitively define them all in the Constitution.

Alan B. Morrison, a noted constitutional scholar who has won several landmark cases before the U.S. Supreme Court, has outlined just a few of the provisions of the amendment which would be endlessly litigated:

What is a fiscal year?

Can a fiscal year be changed?

What is an outlay?

Does the amendment cover only actual cash outlays, or does it also cover obligations to spend in future years, such as when the Government buys an aircraft carrier over 5 years or makes a mortgage commitment for 30 years?

How should programs with their own trust funds like Social Security and the highway trust fund be treated?

What about quasi-governmental entities like Amtrak, Conrail, the Federal Home Loan Mortgage Corporation, Postal Service, the Tennessee Valley Authority, and the Student Loan Marketing Association?

How are direct Federal loans to be treated? Are they outlays?

How are Federal loan guarantees to be treated? Are they outlays?

How should Federal insurance, like crop insurance, mortgage insurance, deposit insurance, and flood insurance, be treated? Are they outlays?

What is a revenue?

What is a user fee?

What happens if the President waits until the end of the fiscal year before sending his proposed budget to the Congress?

What happens if the President's economic assumptions are inaccurate, and who determines if they are inaccurate?

What happens if the President and the Congress cannot agree on a budget? Who makes the cuts then?

What happens if actual receipts are less than estimated receipts?

Who determines if funds are being spent at a rate which will, by the end of the year, exceed the allowed amount? As Morrison put it:

> This would mean that the Federal courts would be in the business of having to review all of the complicated budget data to decide whether the spending laws were in compliance with the Constitution, on a highly accelerated schedule, with new data coming in

all the time, and with the extraordinary time pressures that the inevitable end of the fiscal year places upon litigants and the trial judge, let alone the judges in the courts of appeals and the Supreme Court.

If cuts have to be made in the middle of a fiscal year, how will they be made?

How will conflicts be resolved between this amendment and the constitutional prohibition on laws impairing the obligation of contracts?

Should funds be counted as outlays the day a check is written or only when the check is presented for payment?

If the Government shifts the cost of running certain programs to the private sector is this a tax?

Does the amendment implicitly give the President line-item veto power?

The so-called balanced budget amendment would do serious damage to the delicate system of checks and balances the Founding Fathers established for our Nation. The balance of power among the three branches of our Government would be forever changed. The executive and judicial branches would assume virtually full control over the budget and the Government.

Mr. Morrison concluded his testimony on the so-called balanced-budget amendment by stating:

Each of you should ask yourselves whether you really want the federal courts to control the federal government. Do you really think that litigation is a preferable solution to negotiation between the Congress and the President? * * * the Balanced Budget Constitutional Amendment is a terrible idea. Unbalanced budgets may be bad for the economy, but this solution is plainly worse for everyone, except perhaps for the lawyers who will be handling the cases.

With all of these questions up in the air and subject to litigation, a likely result of the adoption of the so-called balanced budget amendment is a constitutional crisis. The amendment may tell us where we want to go, but it does not tell us how to get there, nor does it guarantee that we ever will.

A BETTER WAY

Fortunately, there are alternatives to a constitutional amendment which can bring our budget under control without devastating our economy and without undermining our Constitution.

ADOPT A CAPITAL BUDGET

Like the States, most businesses, and most families, the Federal Government should separate capital spending from normal operating expenses. Expenditures for capital assets which will retain a value—highways, weapons systems, national parks, et cetera—should be financed through a separate capital budget, just as States' roads, businesses' plants, and families' homes are financed. The Federal Government spends more than a quarter of a trillion dollars each year on capital assets that retain a value for many years. Separating these expenditures, and the tens of billions of dollars of interest costs associated with them, into a separate capital budget will provide a more accurate accounting of Federal assets and liabilities.

ADOPT BIENNIAL BUDGETING

Annual budgets may have made sense 50 or 100 years ago, but in today's more complex world the Federal Government should switch to 2-year [biennial] budgeting. A 2-year budget would provide greater certainty to the budget process and makes it possible to do more advance planning and to take greater advantage of economies of scale. Some economists suggest that just switching to biennial budgeting could reduce overall expenditures by 5 to 10 percent.

PRIORITIZE FEDERAL SPENDING—UTILIZE ZERO-BASED BUDGETING

We must set priorities. Currently, last year's budget is used as the "baseline" for this year's budget. This process must stop and we must convert to zero-based budgeting, where no expenditure is taken for granted. Using this approach, in each 2-year budget cycle, each program must demonstrate its continued worth. Instead of instituting across-the-board cuts which hurt valuable programs as much as less valuable programs, we must prioritize our spending. This may mean the total elimination of some less valuable programs in order to preserve more critical programs.

CUT FOREIGN AID

Foreign aid may be only 1 percent of the overall Federal budget, but it is an area which can and must be cut. Until we get our economic house back in order we can no longer afford to be every Nation's favorite spendthrift uncle. Since the end of World War II, the United States has been the most generous nation on earth. In today's environment, however, it is fiscal lunacy to continue borrowing money only to hand it out as foreign aid to other countries.

ACKNOWLEDGE THAT THE COLD WAR IS OVER

The President is simply wrong when he says the defense budget cannot be cut. The cold war is over and we have won. It is time to redeploy our resources to meet our domestic needs, including cutting the deficit.

Instead of redeploying, however, the United States still has hundreds of thousands of troops in Europe and Asia. We can bring many of those troops home, or ask our European and Asian allies to pay for the cost of keeping our troops on their soil. If they want our assistance in keeping the peace, they should defray our expenses.

Similarly, we can eliminate redundant weapons systems, reduce our orders for new weapons, and cancel work on ultra-expensive and unreliable proposals like star wars, Brilliant Pebbles, and the B–2 bomber. Why spend billions on a new plane which appears not to work, especially when the Soviet military is a shambles and there no longer is any radar to evade? Cutting star wars alone would save $4.3 billion this year, and hundreds of billions over the next several decades.

CUT LOW-PRIORITY DOMESTIC SPENDING

When you are rich you can afford to buy everything. When tough economic times come, however, you have to tighten your belt. Over the last few months, for example, I have voted to eliminate funding for both the superconducting super collider, a multibillion dollar theoretical physics research project with no known practical applications, and for the space station. In the best of times, these projects might be worth undertaking. In today's economic environment, however, we cannot afford these two projects which will cost nearly $9 billion this year, $40 billion over the next decade, and more than $125 billion over their lifetimes. The easiest way to control spending, is by stopping it before it is too late to back out.

CAREFULLY CULL "PORK" AND "FAT"

In the last month the Congress has successfully cut $8.2 billion from President Bush's original budget request for this year. This process should continue. A little bit here and a little bit there really does add up. Nothing infuriates me, or the American people, more than hearing that Federal funds have been used for some absurd or unnecessary project. While earmarked projects are not necessarily all bad, they should have to prove their worth like every other Federal program.

It is commonly, but inaccurately, believed that Congress is responsible for most spending and that the President is always trying to rein in congressional spending. In reality, it is the President who is usually the "big spender," and the Congress which is curbing presidential spending requests.

Since the end of World War II, Congress has appropriated $189 billion less than the President has requested. Just since 1984, Congress has appropriated $44.6 billion less than President Reagan and Bush requested.

ELIMINATE ADMINISTRATIVE WASTE IN HEALTH CARE

The cost of health care is the single fastest growing portion of the Federal budget. It is also the fastest growing portion of most families' budgets, which is why so many people are pressing for a national health insurance system.

While our current health care system has made medical advances which many people never even dreamed of a generation ago, it has also spawned a paperwork and billing morass which consumes nearly one-third of all expenditures for health care. We need to adopt a simplified and streamlined accounting and billing system as part of a national health insurance plan which will eliminate this expensive waste of scarce Federal and family resources. Doctors, patients, insurance companies, and the Government alike should spend more time and money on actually providing health care, and less time fighting over bills and paperwork.

CLOSE FOREIGN TAX LOOPHOLE

Each year foreign companies use fancy accounting gimmicks to transfer hundreds of billions of dollars in income and profits from the United States to other nations. As a result, the United States is deprived of $30 to $40 billion a year in tax revenue it should be receiving. In addition, American workers lose job opportunities because production is moved offshore in order to take advantage of this tax loophole. Congress should pass my bill, H.R. 4304, to close this unconscionable tax loophole.

MAKE THE TAX CODE MORE PROGRESSIVE

It is not fair that an individual making $10 million a year pays the same tax rate as a person making $100,000 a year. There should be more than three tax brackets. Multimillionaires made out like bandits in the 1980's as a result of supply-side economics, those who have made the most in the past, should be willing to contribute the most to our deficit problems.

The steps I have outlined will not, in and of themselves, eliminate all of our deficit problem overnight. As I have documented, no reason-

able plan to balance the budget immediately exists. That should not come as a surprise since, after all, the problem was not created overnight.

Nonetheless, we can, on a bipartisan basis, make substantial and meaningful steps toward a balanced budget. Regardless of the success or failure of this amendment, I am committed to making the hard decisions that are necessary. I want to work with the President, and Members from both parties, to leave our children and grandchildren a legacy of accomplishment, instead of a millstone of debt.

Mr. COYNE. Mr. Chairman, any proposal to amend the U.S. Constitution demands the most solemn debate and careful attention of the House. This is especially true of proposals to adopt a constitutional amendment to balance the Federal budget.

There is no question that the Federal deficit must be controlled. I strongly support a balanced budget, and I am willing to cast the votes necessary to cut the deficit. The United States cannot afford $400 billion deficits. Still, I oppose amending the U.S. Constitution—America's guarantee of liberty and democracy—to paper over a basic political dispute over national budget priorities.

The Stenholm balanced budget amendment would shatter the basic foundations laid by America's Founding Fathers for the operation of the legislative, executive and judicial branches of government. This proposed amendment radically alters the system of checks and balances devised to guide our Republic through political debates and national crises. This amendment shifts final responsibility for Federal budget decisions from men and women elected by the will of the people to a body of appointed Federal judges holding office for life.

The Stenholm amendment would require that, prior to each fiscal year, the Congress and the President agree on an estimate of total receipts for that fiscal year by enactment of a law devoted solely to that purpose. What would happen if there was no agreement? Could either the President or the Congress seek judicial intervention to force the other party to accept its estimate, with the possibility that Federal judges could simply pass down their own estimate from the bench? The American people expect their elected representatives to make budget decisions and not hide behind the robes of Federal judges.

A Federal budget reflects the priorities of the American people. Congress deals each year with budget decisions affecting Social Security, the health needs of seniors, the poor, and working Americans, educational opportunities, economic development, and national security. Under our democratic system of Government, Congress must eventually make these decisions on the basis of majorities reflecting the will of the people.

The Stenholm amendment would overturn the principle of majority rule in favor of government by a minority whenever the needs of the American people demand spending in excess of receipts.

This amendment allows a 40-percent minority of the full House and Senate to defeat any proposal which necessitate outlays over estimated receipts. This minority would be able to block disaster relief for any community, defeat proposals to extend unemployment benefits, or deny senior citizens an increase in the Social Security earnings limit ceiling if such proposals required spending in excess of estimated receipts.

The Stenholm amendment is not the answer to our Nation's budget deficit problems. The budget deficit problem was not created because of the lack of a constitutional amendment. The problem is the lack of political will shown by elected officials who talk about balanced budgets but never offer the level of personal commitment required to actually balance a budget. Not one Republican President has submitted a balanced budget in the past 12 years. Reagan and Bush talk about balanced budgets and amendments to the U.S. Constitution but they have never presented a budget that pays for itself.

If George Bush left the White House today, the legacy of the Reagan and Bush administration would be a national debt in excess of $3.8 trillion. Members of the House may recall that the total accumulated Federal debt of over 20 years was $914 billion in 1980 when Jimmy Carter left the White House.

What George Bush called voodoo economics in 1980 led to this explosion of debt and deficits. The Reagan-Bush-Qualye policies of cutting taxes for the wealthy and increasing defense spending played a central role in tripling the national debt. Huge deficits were inevitable in the face of Democratic opposition to gutting programs serving middle class families, the working poor, seniors and America's children.

It is worth noting that President Bush has endorsed a balanced budget amendment for future presidents but is unwilling to defend his own efforts to control the deficit. The 1990 budget agreement cut the growth of the deficit by a total of $496.2 billion over 5 years through a combination of tax increases, program cuts and spending controls. Unfortunately, the heat of the current political year was apparently too much for President Bush to defend his part in crafting this deficit reduction agreement.

If President Bush is unwilling to offer the strong political leadership required to implement a limited deficit control program over 5 years, then how can we expect him to make the tough decisions that would be required if the Stenholm amendment were part of the Constitution today.

The Stenholm balanced budget amendment would devastate the U.S. economy and lower the standard of living for millions of Americans. The chairman of the House Budget Committee has detailed some of the steps which would have to be taken if the budget were to be completely balanced by 1997 when the Stenholm amendment might go into effect. Specific steps would likely include $45 billion in Medicare cuts, reduction of Social Security and other retirement COLA's; cancellation of space station and super collider, elimination of Amtrak and mass transit subsidies, and many other spending reductions. If one accepts that these massive spending cuts would accomplish two-thirds of all deficit reduction, Congress would still have to enact a range of tax increases, which could include steps to limit the tax benefit of itemized deductions to 15 percent; or an increase in the personal income tax rates to a range of 15.5 to 39 percent, plus a 1 percent increase in the corporate income tax rate, plus a cap on the mortgage interest deduction at $20,000 for couples and $12,000 for singles.

I am willing to cast the tough votes needed to control deficit spending but I am not willing to sacrifice the U.S. Constitution and the needs of the American people. My budget priorities are the working men and women, middle class Americans, who would suffer from meat axe budget cutting proposals under the Stenholm balanced budget amendment.

Mr. Chairman, Congress and the President should sit down and agree on budget priorities that include paying for what is spent. Real deficit control should start today. We should not pass this challenge on to a future Congress and President. The Stenholm amendment should be rejected.

Mr. WILLIAMS. Mr. Chairman, the proposals to amend the Constitution to require a balanced budget do little to guarantee a balanced budget. In the absence of clear enforcement procedures, it is a destructive amendment because it would involve the courts in establishing fiscal policy. By doing so, it represents the most dramatic break with elected representative government in our country's history and would give control of our economy to the branch of government that has no experience or expertise in fiscal matters.

The Constitution is designed for statements of fundamental principle, and not for matters subject to waiver. No other constitutional principle, free speech or equal protection, can be waived away.

This rigid fiscal policy does not belong in the Constitution. A requirement of an annual balanced budget inhibits the operation of the automatic stabilizers currently built into the Federal budget.

At present, tax revenues fall and outlays for unemployment compensation rise when the economy falls into a recession. These responses lessen the severity of an economic downturn, at the cost of a temporary increase in the deficit. This is a normal condition during a recession. Prohibiting deficits or making it very difficult to get them authorized would force us to raise taxes and/or cut outlays during a recession. Such action would push us deeper into a recession.

During this century, we had a balanced budget from 1920–30 just prior to our worst depression in our country's history. We also had one 1947–48, 1951, 1956–57, 1960, and 1969. Generally speaking, our country has operated well with minimum deficits.

In the past, our country's fiscal history has been punctuated by deficits when we have invested in our future growth, in roads, in the education of our children, in research and development. Deficits are not inherently bad or wrong so long as borrowing is used for future growth and investment.

No one disagrees that the accumulated debt of the Reagan-Bush era must be reduced. However, by treating all spending identically, as would occur under a balanced budget, the very investments which are needed for economic growth would be stifled.

The Stenholm amendment shifts the balance of power in the Congress from the majority to the minority by requiring a three-fifths

"super majority." Our country's fiscal policy should not be left to a minority in either House of the Congress.

The effective data for the Stenholm balanced budget amendment is 1997. The budget for that year is now projected to be $1.73 trillion, and the deficit $236 billion. That assumes that the S&L bailout will be over, that we will enjoy economic growth with low inflation in the interim, and that no new programs will be added without paying for them. Interest will still remain at about 15 percent of the 1997 budget. The facts are to reach a balanced budget:

Without a Social Security cut or a major tax increase, the rest of the budget would have to be cut by more than one-sixth or 17 percent below current law.

If defense was also protected from cuts, the rest of the budget would have to be reduced by about a fourth or 25 percent.

To erase the deficit with taxes alone, taxes would have to be raised by about one-seventh or 14 percent.

THE STATE BUDGET MODEL

Should we model our budget after the States? President Reagan thought so and made the claim in 1984: "the balanced budget amendment * * * would force the Federal Government to do what so many States and municipalities and all average Americans are forced to do * * * to live within its means. * * *"

The facts are otherwise. States do not live within their means, they borrow. If States actually balanced their budgets, we would never hear about States and local bonds and worries about bond ratings.

Limitations on the authority of State legislatures to borrow have been circumvented by the creation of numerous special districts and authorities with borrowing authority.

Since these limitations usually only apply to "full faith and credit debt" secured by general revenues of the Government, States turn increasingly to nonguaranteed bonds to avoid debt limitations. During the last decade, full faith and credit debt grew 52 percent, from $49 billion in 1980 to $75 billion in 1990; while nonguaranteed debt grew 241 percent, from $71 to $241 billion.

The fact that 31 States have balanced budget constitutional constraints requiring Governors to submit a balanced budget and legislatures to pass one, does not lead us to a similar position for the Federal budget. Capital projects, universities, highways, income from mineral production, and retirement and pension funds are outside the realm of State operating budgets.

The President's budget for 1993 projected a deficit of $337 billion. This year, in the President's own budget document, the President's budget was presented using the California model and deficit of $537 billion resulted. Clearly, the answer is not to follow the pattern of the States.

Mr. RINALDO. Mr. Chairman, I rise in support of the proposed amendment to the Constitution to require a supermajority vote in Congress to pass a Federal budget that is not balanced.

I do so without any great confidence that this resolution is some kind of magic formula that will automatically and painlessly eliminate the deficit. The only thing worse than this amendment is the fact that it has become necessary.

We are all familiar with the figures on the size of the Federal budget deficit. In my view, the most telling fact is that next year interest payments on the deficit are going to be the largest single category of Federal spending, surpassing the national defense and Social Security. Fifteen percent of our budget will go toward paying for our past overspending, and we will get nothing in terms of current benefits or services in return for this enormous expenditure.

Opponents of this measure are exhorting House Members to act courageously by voting against the proposed amendment. But what is courageous about voting essentially to continue the status quo? For more than a decade, Congress has been subject to statutory requirements that we keep spending within the bounds of available revenues, and for all of those years ways have been found to circumvent the requirements.

Opponents claim that this proposal is an election-year gimmick being pushed by that all-purpose villain, the special interest group. In point of fact, most of the special interest groups I have heard from on this amendment have been opposed to it. On the one hand, they claim that it will do nothing to cut the budget deficit, and on the other hand they predict that it will inevitably lead to severe reductions in the most vital Government services. Opponents of the resolution have already played the Social Security card, trying to persuade low-income retirees that their Social Security benefits will be completely cut off if this amendment passes. If we really want to do the politically expedient thing in an election year, we should defeat this resolution and continue with business as usual.

I am going to vote for this resolution, however, because I feel that the future of our country is more important than the political future of any individual Member of Congress. Unless effective action is taken now to reduce the deficit, our children will not have the same standard of living that we have enjoyed. As our economy deteriorates, there will be more demand for Government services and fewer financial resources for the Government to tap. To some extent, we are already seeing this happen, and we must reverse the situation before it becomes any worse.

It is certainly true, as opponents of the resolution argue, that Congress should intelligently evaluate spending choices and continue funding for the most vital Federal programs. The proposed constitutional amendment in no way prevents Congress from setting these spending priorities. All it says is that spending decisions must be made with a view to the amount of money that is actually available. Programs that are less than necessary, that are nice but not critical, will have to be allowed to lapse, but funding for the most important programs can certainly be preserved. Far from preventing us from carrying out these responsibilities, the proposed amendment will force us to determine priorities more carefully and to be more energetic about finding and eliminating waste from the Federal budget. I am confident that Members of this body will have enough respect for the Constitution to give this amendment more than the lip service that has been given to previous attempts to statutorily require a balanced Federal budget.

What opponents of the amendment are really saying is that it is more important to meet current demands for Federal spending than it is to prevent a future financial disaster. They say that they are concerned about the deficit, but they emphasize the dire consequences of doing anything about it. These arguments against the balanced budget amendment are really arguments in favor of an indefinite continuation of deficit spending.

This country cannot afford to have its Government continue with such a disastrous fiscal policy any longer. It is time now for Congress to exercise the leadership the public expects from us and to put our Government on the road to a balanced budget by the beginning of the new century. I urge my colleagues to join me in supporting the balanced budget resolution.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of passing a balanced budget amendment to the Constitution.

The time has come to make fiscal responsibility part of the core of our American Government. It is past time that balancing the budget became more than just a good idea.

While the deficit may seem so outrageous as not to be real, it's damaging effects on the American economy and the American family are very real. The interest on the Federal debt alone takes up to 14 percent of the Federal budget.

In others words, the Federal Government spends more money just to pay the interest on the Federal debt than it spends on the total of education, training, employment, social services, health, and the environment. Reducing the deficit is the only way to reduce this dangerous drain on limited Federal funds.

Statutory requirements for a balanced budget have not worked. Congress has repeatedly passed supposedly tough laws demanding a balanced budget, only to see the rules changed later in the game to serve the convenience of congressional big spenders. Now the United States is faced with A $400 billion deficit and an accumulated debt of about $4 trillion. Balanced budget statutes have not worked.

However, this recent move to pass a balanced budget amendment, did not originate here in Congress. Rather, the cry for a constitutional basis for balancing the Federal budget came from outside the beltway. My constituents told me that they wanted Congress to follow the same principle that they and every other American family must practice, do not spend more than you have.

Importantly, however, I continue to oppose tax increases and I believe that the budget should be balanced by limiting Federal spending. If Federal revenues need to be increased, Congress should focus on job creation and economic growth. Tax increases will stifle job creation and further weaken the economy.

I urge my colleagues to support amending the Constitution to require a balanced budget. Further, I urge your support for measures that will balance the budget by limiting spending, not raising taxes.

Mr. GALLO. Mr. Chairman, I rise today in support of the balanced budget amendment to

the Constitution. I firmly believe that we must pass this resolution and send this amendment to the States for ratification.

Deficit spending is out of control. This year, the Federal deficit will reach $399 billion. The total national debt will soon surpass the $4 trillion mark. This year, 62 cents out of every dollar paid in income taxes will go to pay the interest on the national debt. This can not continue.

Over the course of the past 10 years, Congress has enacted a number of laws designed to bring the budget into balance. None of them have worked. The big spenders in Congress have always found a loophole to keep them from having to meet the requirements of these laws.

That is why I believe that we must send a balanced budget amendment to the States for ratification.

Unfortunately, a number of people and organizations opposed to this amendment have been using scare tactics to try to derail the growing effort to enact this much needed constitutional requirement.

I recognize that thoughtful people can have sincere disagreements about the wisdom of enacting a balanced budget amendment. I respect these honest differences, honestly stated. That is what our country is all about.

However, I deplore the cynical attempts by some to frighten the American people—especially senior citizens—with doomsday predictions that have no basis in fact or reality.

They maintain, for example, that drastic cuts in programs like Social Security and Medicare will have to be made if this amendment is passed.

They suggest that the balanced budget amendment is really a wolf in sheep's clothing, hiding a secret agenda to balance the budget on the backs of America's seniors.

Then they suggest that the only way to turn back this assault is by making a phone call—and by sending them a check.

I deplore this cruel attempt to manipulate the American people with half-truths and fear.

What they are saying is simply not true.

The balanced budget amendment provides for a phase-in period; the earliest it will take effect is in fiscal year 1998, 5 years from now. That means we will have the time we need—if we start today—to bring the budget into balance.

The Congressional Budget Office—not the administration—projects that Federal Government revenues will grow over the course of the next 5 years from $1.102 trillion to $1.492 trillion. If we can just slow the growth in Federal spending, we will be able to balance the budget without having to cut important programs or raise taxes. I believe the Federal Government should be able to make do on $1.5 trillion a year.

By running these huge deficits, we are leaving unpaid a huge debt that will have to be made good by our children and grandchildren. A child born today inherits a $16,000 debt—that is his or her share of our exploding national debt. I can not, in good conscience, let this trend continue.

Mr. Chairman, I urge my colleagues to pass this resolution with a resounding show of support. Let us show the American people that we are capable of doing the right thing. Pass the balanced budget amendment.

Mr. SENSENBRENNER. Mr. Chairman, Congress found its way around Gramm-Rudman and abandoned its limited controls. In the current session, Congress tried to ditch one of the few meaningful disciplines in the Budget Enforcement Act of 1990, the firewalls. Chances are, the majority leadership will have its way and the firewalls will come down before long. What this says is that Congress will continue piling up debt and circumventing statutory spending restraints until the good credit of the U.S. Government collapses. Future generations will look back on today's decision as a turning point, either toward restoring the credit of the U.S. Government and affording unborn Americans a standard of living similar or better than that we have come to expect, or reducing future generations to eroded living standards, chronic debt, and an America incapable of providing opportunity or prosperity.

I have long supported a balanced budget amendment to the Constitution. In fact, one of my first acts after being elected to Congress was to introduce balanced budget amendment legislation. Since this time, the lessons of climbing deficits and out-of-control spending should convince even the skeptics that this remedy is necessary. In fact, I hope Congress goes even further, providing the President line-item veto authority of pork-barrel spending. Congress must not flinch when presented this historic opportunity to prescribe the antidote for its failings.

The balanced budget constitutional amendment is supported by the great majority of Americans because Congress has proven itself helpless in addressing deficits. Deficit spending means Congress can avoid setting priorities and making the difficult decisions. Congress has become so accustomed to financing programs in the red, the implications of our actions are lost and diluted by the sheer magnitude of the numbers involved and by assurances that all Government programs are absolutely essential. A balanced budget constitutional amendment will force Congress to implement enforcement mechanisms with the weight of this country's primary charter guiding our decisions. Opponents of the amendment refer to a lack of congressional courage as the only obstacle to fiscal responsibility. In that case, a constitutional amendment provides the very spine Congress lacks.

In the same way an alcoholic fears putting the cork in the bottle for the very last time, the fear and trepidation concerning the balanced budget constitutional amendment are understandable. However, we cannot keep the bottle open and hold out hope that some unforeseen action will give Congress the political will to abstain from taking a drink. History, and the odds are against this happening, and we cannot gamble with the future of America any longer.

Mr. ANNUNZIO. Mr. Chairman, the balanced budget amendment is a sugar-coated misnomer. After you scrape away the sugar, the whole thing stinks.

Is it any wonder that over 400 of the Nation's leading economists have come out against the amendment. Most of them predict that passage of the amendment would throw the economy into a depression.

And it is not only economists who are opposed to the amendment. Groups ranging from organized labor to senior citizen groups and the U.S. Chamber of Commerce also oppose the amendment.

And here is what former President Gerald Ford, who served in this body for 25 years, had to say about the balanced budget amendment, he called the proposal a gimmick.

Now, before we rush forward to embrace this proposal, let me remind Members of this body of a previous attempt that Congress made to get cozy with a sugar-coated misnomer.

In 1988, a public law was enacted called the Medicare catastrophic coverage bill, which in effect, imposed an $800 surcharge on Medicare recipients. You will recall the outcry from every corner of this Nation. You will recall the cards, letters, and phone calls from constituents in record numbers. You will recall that there was such an outcry against that law that we had to come back in the next Congress and repeal it. Have we learned nothing from our mistakes?

Now remember, we were only talking about an $800 surcharge in the 1988 Medicare legislation. The balanced budget amendment, it is estimated, would cost the average Social Security recipient $1,027 in lost payments in 1995. The Medicare beneficiary would lose $679 in benefits in 1995 under the balanced budget approach.

Ron Pollack, executive director of Families USA, said that the constitutional amendment is "a dagger aimed at the heart of Medicare * * * and it will also slash Social Security benefits for 42 million Americans."

Now, what I would like to know is what is going to happen when those 42 million Americans realize that the balanced budget amendment is going to be balanced on their meager pocketbooks and wallets?

This legislation is not going to cause any financial hardships for the rich and big businesses, but it is going to cause severe economic problems for those who can least afford any reduction in their income—namely our veterans, our elderly, and other Social Security beneficiaries.

The name "balanced budget" has a wonderful ring to it. It is the type of legislative title that we can all dance around and lead cheers much like a college pep rally. But like that sugar-coated misnomer, what we see with the balanced budget amendment is not what you get. Let's call this amendment by its real name, the "Social Security and Medicare payment reduction constitutional amendment." How many of you want to lead cheers at that pep rally?

Like the Medicare catastrophic coverage legislation, the balanced budget amendment is going to launch a howl of protest from our senior citizens. We can either answer their concerns now, by voting against the constitutional amendment now, or we can wait until they are marching on Washington, and frantically try to come up with the solution to the problem.

In conclusion, let me say to the Members of this body, before you vote on a constitutional amendment, do you really want to take a chance of having 42 million Americans led into further economic hardship?

Mr. STARK. Mr. Chairman, I am not going to vote for any of these amendments today,

but I will vote against enough spending and for enough cost savings this year to ensure that if a majority of Members made similar votes, we would not have a deficit this year—we would have a surplus. I note for the record that in checking my votes for the last 3 years—1989, 1990, and 1991—I voted against House passage of $897.4 billion in Federal spending. If a majority of Members had cast similar votes, we would have had surplus budgets in 2 out of 3 years and a near balance in the third.

We do not need a constitutional amendment to tell us how to do our duty and how to make tough choices.

Nevertheless, I expect that one version of the amendment will pass. It will then be most interesting to see how the President and Members begin to enforce the restraints.

In the last several weeks, the Ways and Means Health Subcommittee Democrats and I have developed a health cost containment bill designed to stop the outrageous inflation in health care costs in our society. I would say to all the Members that you will never balance the Federal budget until you can control health care costs. Our proposal sets a budget for health care expenditures in our society at about 15 percent of gross domestic product. By the year 2001 it will save the Federal Government about $91 billion a year; in 2002 it will save $114 billion per year. Equally important, it will save the private sector $230 billion in 2001 and $291 billion in 2002, thus enabling American industry and workers to be more competitive. To give an example, today GM spends about $1,023 on employee health costs for every vehicle it makes. In the year 2000, without cost containment, the price will be $2,127 per vehicle, $1,656 in 1992 constant dollars. With cost containment, the cost in 8 years can be held to $1,295 in constant dollars. I mention this as an example of the kind of step we should take. But, I also note that the President, the House Republican Members, and many Members of my own party who are avid supporters of the balanced budget amendments oppose our efforts to enact these health care savings. I would hope that those who vote for constitutional amendments today will also support efforts to contain health care costs.

In the coming weeks, I plan on seeking permission to offer amendments to eliminate the Selective Service System and U.S. Information Agency libraries that are operating in NATO and OECD countries. They are clearly bureaucracies that have helped win the cold war, but which are no longer necessary. It is incredible that we are paying for four USIA libraries in Australia, for example, when domestic libraries throughout America are being shut down and curtailed. I don't think that we need to spend taxpayer dollars on information centers to convince the Aussies that they should resist communism.

I recently polled my congressional district on where they would like to see budget cuts, and I received over 4,000 responses urging cuts in a wide variety of areas. The overwhelming majority of my constituents favor major cuts in weapons spending, and I did vote against the Defense authorization bill because its spending levels were too high. My constituents also oppose foreign aid spending, agricultural subsidies, the level of NASA spending, and irrigation projects. They also supported increases in corporate taxes and taxes on the upper income. I will be voting accordingly in the coming weeks, and I hope that the passage of this amendment will help encourage other Members to support these tough choices.

Mr. GREEN of New York. Mr. Chairman, while I support restraining runaway Federal spending and eliminating our troubling $400 billion budget deficit, I rise in strong opposition to all the measures being considered that would amend our Constitution to require balanced budget.

It is imperative that the Government maintain the ability to react to economic trends, especially in times of recession or world crises. The balanced budget amendments are economically perverse. They would require spending cuts or tax increases as recessions cut revenues and increase calls on entitlements like welfare and Medicaid. A better prescription for recreating the Great Depression cannot be imagined.

But it will be argued that the amendments have emergency escape provisions. However, since they require a supermajority—three-fifths—of the Members to breach a balanced budget we would permanently alter the constitutional principle of majority rule as well as create the potential of tyranny by a minority. Not only could a minority deny Congress the ability to exempt itself from a balanced budget in time of recession or emergency, it could, if it so chose, extract concessions from the majority totally unrelated to the emergency at hand as a price for its support.

These balanced budget amendments also fail to guarantee a balanced budget because they do not provide for an enforcement mechanism. As my colleagues know, beyond deceiving the American people, amending our Constitution does absolutely nothing to reduce or eliminate our $400 billion budget deficit. It does nothing to eliminate our $4 trillion national debt. Balancing the budget requires more than idle words and painless gimmicks. There must be political will and fiscal resolve.

I urge my colleagues to vote no on all the balanced budget amendments. Let us balance our budget. However, let us not destroy the constitutional principle of majority rule by giving control of our economic destiny to a minority.

Mr. PASTOR. Mr. Chairman, after nearly a generation—23 years—of borrowing from the future to pay for current consumption, it is time that the Congress and the President face up to the reality of paying our bills with our current revenue. Currently, we are getting further into debt at the rate of about $1 billion per day; or $1,600 for every man, woman, and child per year. Our total public debt is approaching $4 trillion. The interest alone to service this debt is 14 percent of the Federal budget and growing. The deficit is sapping the strength of our economy, and it must be attacked aggressively. We just cannot continue to mortgage the future to pay for the present.

The deficit is the result of excessive spending combined with insufficient revenues. The Congress, the President, and the American people agree that taxes are already too high and most agree on the need to reduce Government spending in general, but unfortunately we all cherish the use of public money for particular programs that we believe serve an important need.

Keynesian economists tell us that Government spending is good during economic downturns, much like an aspirin is used for a headache. John Maynard Keynes also warned that surpluses are necessary in periods of prosperity. But over the last 23 years, we have an undisciplined political system that encourages spending without balancing revenues and without regard for the economic cycle.

We are at a critical decision point on the fiscal future of our country. We must find the courage to make the tough, but compassionate and fair decisions on spending priorities; and to balance these priorities with equitable tax policies that encourage future growth.

My friends, this debate is born out of desperation. In the last 7 years this body has struggled to enact statutory balanced budget requirements. Attempts to impose spending limits by Gramm-Rudman I and II, and by negotiated agreements between the President and the Congress have failed because of our insatiable thirst to spend money we do not have. We even fought a war—the Persian Gulf war—off-budget.

Do we need to amend the Constitution to balance the budget? Of course, we don't. Will we balance the budget without an amendment? Probably not. Will an amendment help us to achieve a balanced budget? Maybe. Winston Churchill said "* * * No one pretends that democracy is perfect or all wise. Indeed, it has been said that democracy is the worst form of Government except for all those other forms that have been tried from time to time." Similarly, a balanced budget amendment is better than anything that has been tried or proposed thus far to restore sanity to our fiscal policy.

We now have before us several choices for a balanced budget amendment. Of primary concern is the future of Social Security. I view Social Security as a covenant between the people and their government; a covenant that should not be broken unilaterally. Therefore, Social Security must be self-supporting and off-budget. I also believe that the principle of majority rule need not be abandoned in order to achieve sound fiscal policy. Finally, the responsibility for developing a comprehensive Federal budget rests with the President. That need not and should not change.

I will vote for House Joint Resolution 496, the only choice that meets these criteria—protect Social Security, preserve majority rule, retain Presidential responsibility—to amend the Constitution to provide a balanced budget of the U.S. Government. The next step will be to agree on the enforcement mechanisms that will allow for the tough decisions.

Mr. ALLARD. Mr. Chairman, today I rise in full support of the balanced budget amendment.

The discharge of this bill in less than 9 hours speaks to the outrage of average American citizens who are demanding accountability from Congress, including a balanced budget amendment. The balanced budget amendment was successfully discharged from the Judiciary Committee by the signature of at least 218 of our colleagues. This is only the

second time in the history of the House of Representatives that a discharge petition has been completed in 1 day.

This amendment would require the President to propose a balanced budget and the Congress to adopt a balanced budget, unless three-fifths of both the House and the Senate agree to unbalance the budget for a particular year.

By raising the threshold of difficulty for deficit spending and requiring House members to go on record to raise taxes, this amendment would force the President and Congress to set priorities rather than allowing them to postpone tough budget decisions from one year to the next.

The legislation further states that it will take effect the second fiscal year after ratification by three-quarters of the States or by 1998 whichever is later. I am convinced that it's possible to do this without cutting spending from year to year or raise taxes any further. It does mean that uncontrolled spending cannot continue and that Congress must set priorities and be accountable.

I feel that we need limits on spending and taxes. The balanced budget amendment is a step in the right direction. A more complete solution would be to limit the increase in receipts and limit the increase in spending.

By limiting receipts so that they do not increase at a rate greater than the increase in national income says that Government should not have more than the average Americans—working Americans who have to pay the bill.

The proposal to limit spending to 19 percent of the gross national product is another way of bringing the huge Federal bureaucracy under control. The average level of Federal tax revenues collected over last 25 years has been 19 percent of the GNP.

These are all reasonable proposals, especially when taken in their total context. Remember, Congress can respond to emergencies with a supermajority vote. One of the exceptions that is reasonable is a declaration of war.

Further, I support a line-item veto. And I will vote to include the line-item veto to provide the President with authority to enforce the balanced budget and spending limitations requirements. This is used in 43 States and I see no reason why Congress cannot implement this important fiscal tool.

These are all thoughtful solutions when combined with the balanced budget amendment. This is not being Draconian, it is recognizing that the working American family has the right to keep their hard-earned money. This Nation needs to start making a commitment to reduce the size of Government, not increase it.

We must be more accountable in the Congress. The balanced budget amendment is another brick which we should be put in place to build a foundation of accountability.

Those who oppose the amendment say it will destroy our future. In reality, all generations are counting on us to pass this amendment, young and old alike.

My colleagues, our children, and our children's children are placing their future in our hands, we must take this opportunity and regain control of the economic future of this Nation.

Balance the budget now.

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in support of the balanced budget amendment. It's a little difficult to find something different to say. The same issues have been raised over and over again. They basically revolve around the contention from those opposed to the amendment that it isn't needed—that all we need to do is buckle down and come to grips with the problem. The other side says Congress has had 30 years to do that and failed—and the American people want success at least once.

It's amazing to me the level of passion the opponents of this amendment have brought to the floor. They introduced the question of changes in Social Security, obviously designed to bring about fear on the part of Social Security recipients. The fact is that nothing in this amendment changes the relationship to Social Security from what it is this very day. Indeed, Social Security is designed to be off budget—it's funded by its own tax and, in my view, really has nothing to do with balancing the operating budget of the United States.

Opponents say a balanced budget amendment is just an easy way out—that you can pass this and still not have to balance the budget. It's my belief that the evidence shows we do not balance the budget without some kind of constitutional discipline. Obviously, it's not a perfect approach. It has to be followed by continued tough votes. But, there's no reason to expect Congress will be successful in being financially responsible by continuing to do what the Congress has done for the last 30 years.

The opponents of a balanced budget amendment continue to suggest that the deficit is completely the fault of the President. I don't happen to accept that argument; but rather than to quarrel with it, let me simply say that the Congress—the House of Representatives, in particular—has the opportunity and, indeed, the responsibility to change the President's budget if they don't like it. And, in fact, there has been substantial change. The change, however, has not resulted in a balanced budget, but in a greater deficit.

I must say, Mr. Chairman, I'm impressed with the gentleman from California, the chairman of the Budget Committee. But I am puzzled with his insistence that we don't need an amendment; we just need to "face tough issues." Mr. Chairman, that could have been said for many, many years; and that could have been done for many, many years. We could have faced tough issues. The fact is, this House is set up in such a way that each Member wants to do something for his constituency and will insist upon that particular expenditure being made, regardless of what it does to the overall level of expenditures. I've sat here and marveled in this House during my 3-year tenure at the same people who come to the floor in the morning talking about the irresponsibility of not balancing the budget and coming in the afternoon arguing for projects for their districts, or indeed, entire agency budgets, that exceed the previous year's spending by 10, 12, 15 percent. And then they behave as if there's no relationship between the two things.

Mr. Chairman, there's a great unrest in the country about the operation of the Federal Government and the area of financial responsibility is one of the chief areas of contention. I'm absolutely amazed that the core of opposition to this amendment comes generally from people who have been here a very long time who continually take to the floor here and, I suspect even more often at home, and talk about needed change and then rise with great indignation to oppose any change that might make a difference in what the Congress has been doing with regard to balancing the budget.

I am for a balanced budget. I hope this Congress will be for a balanced budget. I think we need to do something different if we expect results that differ from what we've had for too many years.

I urge my colleagues to vote "yes" on the balanced budget amendment.

Mr. STENHOLM. Mr. Chairman, I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. RAY] having assumed the chair, Mr. MFUME, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 290) proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation, had come to no resolution thereon.

GENERAL LEAVE

Mr. STENHOLM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on House Joint Resolution 290, the joint resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE 11TH ANNUAL REPORT OF THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

To the Congress of the United States:

In accordance with the requirements of section 657 of the Department of Energy Organization Act (Public Law 95–91; 42 U.S.C. 7267), I transmit herewith the 11th Annual Report of the Department of Energy, which covers the year 1990.

GEORGE BUSH.

THE WHITE HOUSE, *June 10, 1992.*

COMMUNICATION FROM THE HONORABLE BOB MICHEL, REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable BOB MICHEL, Republican leader:

OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, June 8, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 303(c) of Public Law 101-549, I hereby appoint Dr. Virginia V. Weldon of St. Louis, Missouri, to the Risk Assessment and Management Commission.

Sincerely,

BOB MICHEL,
Republican Leader.

VOTE FOR KYL-ALLEN AMENDMENT TO BALANCED BUDGET AMENDMENT

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KYL. Mr. Speaker, the first amendment that we are going to have the opportunity to vote on to balance the budget will be an amendment offered by myself and the gentleman from Virginia, Mr. GEORGE ALLEN. It will be the Fish substitute, and it will either be voted on late this evening or tomorrow morning.

This substitute limits Federal spending. As an article in today's Wall Street Journal by Paul Craig Roberts points out, limiting Federal spending is really the only way to go. As he notes, most people who would like to see a balanced budget, "really have their sights on constraining spending." Without a spending limit, he notes, a balanced budget requirement is likely to result in politicians assigning public spending responsibilities to private businesses and individuals, and that is why he says an outright spending limit such as the one that we have proposed keeps the real targets in sight.

What is more, he notes that by tying it to the gross national product, our spending limit provides an incentive to the Congress to promote pro-economic-growth policies, because in that way, by increasing the size of the gross national product, we increase Federal revenues and, therefore, have more money to spend.

I include for the RECORD this article from the Wall Street Journal by Paul Craig Roberts, and I urge my colleagues to support a Federal spending limit as the way to balance the Federal budget. That would be an "aye" vote on the first amendment. Support the Kyl-Allen amendment.

The article referred to follows:

[The Wall Street Journal, Wednesday, June 10, 1992]

BUDGET CONTROL: THE AMENDMENT CAN GO WRONG

(By Paul Craig Roberts)

To improve its image with the public, Washington is gearing up to pass a balanced budget amendment to the Constitution. Many people who would like to see a balanced budget are nevertheless worried that the amendment would become a constitutional device for raising taxes. Sen. Bob Kasten (R., Wis.), among others, wants to add a tax limitation to the amendment to ensure it does the intended job of controlling spending. However, in light of recent action by the Supreme Court, even this could fail. Without a spending limit, a balanced budget requirement is likely to result in politicians assigning public spending responsibilities to private businesses and individuals.

Recently the court let stand a square-footage tax (called a "fee") imposed on commercial developers by the city of Sacramento, Calif. The proceeds are to be used to finance welfare housing. The developers argued that it was a violation of their rights to assign to them social responsibilities normally borne by all taxpayers. However, the city hired a consultant to argue that workers attracted by building jobs remained on the city's hands afterward, unemployed and unhoused. The Ninth U.S. Circuit Court of Appeals accepted the argument, and declared the "fees" to have "a rational relationship to a public cost."

Judge Robert Beezer understood what was afoot and dissented, declaring it to be a violation of the takings clause to single out developers to underwrite social policy. Looking into the future, Judge Beezer warned that "we can be expected next to uphold exactions imposed on developers to subsidize small-business retailers, child-care programs, food services and health-care delivery systems."

The judge could just was well have added taxes on restaurants and clothing manufacturers to feed and clothe the needy, taxes on automobile dealerships to pay for traffic police, and taxes on newspapers, bottlers and packaging companies to finance garbage removal. Booksellers could be assessed to pay for public libraries, and blue-eyed blonds could be taxed to provide reparations for "oppressed minorities."

With casual empiricism and a "logical relationship" as the only tests the new extractions must meet, all of these taxes and others are potential revenue sources. It seems bound to happen sooner or later, but a balanced budget amendment that does not restrict spending will speed the process. We would be no better off with the increased uncertainty and higher cost of capital from saddling industries and businesses with public responsibilities that we are with a deficit.

Most supporters of a balanced budget amendment really have their sights on constraining spending. It is true that the combination of a tax limit and a borrowing limit is a spending limit, but it is also true that this roundabout approach lets the focus slip off spending. An outright spending limit, such as the one proposed by Rep. Jon Kyl (R., Ariz.), keeps the real target in sight. There are different approaches to limiting spending. One way is to hold the growth of spending below the real growth rate of the economy. Rep. Kyl's way is to limit spending to 19 percent of the gross national product. This way Congress wants more money to spend. It must support policies that encourage economic growth.

Balancing the budget is much simpler than the enormous effort required to devise, pass and ratify a balanced budget amendment. All the government has to do is hold the growth of spending below the growth of the economy. If impatient, we can freeze the budget for a year or two. No one would be materially harmed by receiving the same amount of money next year as this year. No political revolution would occur, and widows and orphans would not starve in the streets. The deficit would be the only casualty.

A president who made this case could sustain a budget freeze with vetoes. it is the absence of leadership and political will that forces us to turn to constitutional restraints. The problem here is that if governments and the special interests they serve don't want spending constrained, a constitutional requirement will prove ineffective. There is a good argument that a constitutional rule is harder for governments to ignore than a statutory requirement. The cost of evading a constitutional rule is higher and requires more effort than it took to get around the Gramm-Rudman-Hollings balanced budget act, for example.

However, if we think government will ignore or evade a constitutional requirement for a balanced budget, we should not pass one. If the government does not abide by the spirit and law of the requirement, the result is to cheapen all other constitutional protections. Is a balanced budget worth taking that chance?

Rules often have unexpected results. Many supporters of the Budget Control Act of 1974 thought it would produce a balanced budget. Politicians could legislate big deficits by voting in favor of separate appropriation bills. By forcing politicians to vote on the size of the deficit directly, the Budget Act would put the big spenders on the spot and ensure lower limits on spending.

However, it did not work out that way. Economic policy justified budget deficits as a full employment policy, and politicians structured the vote on the budget in terms of employment vs. unemployment, not in terms of red ink vs. a balanced budget. The Budget Act further raised the deficit by stripping away the president's impoundment power.

A balanced budget amendment could be self-defeating for another reason. Just at the time when a fed up public is beginning to hold politicians accountable, we risk slipping into the belief that we can deal with the problem of government with another rule. An alternative is to get on with the revolt and break up the system that has turned public finance into a lotto for organized interests.

THE EARTH SUMMIT CONVENTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SCHEUER] is recognized for 5 minutes.

Mr. SCHEUER. Mr. Speaker, I just had the experience of spending 4 days in Rio at the Earth Summit Convention with over 150 nations of the world represented by their chiefs of state. It was a galvanizing experience. The hope, the excitement, the enthusiasm ran very high.

But I feel that despite the opportunity presented by this conference, the opportunity to reorder our priorities and to achieve identifiable progress is not high. I am not optimis-

tic that the UNCED Conference, the U.N. conference, will produce dramatic results. It did produce excitement. It did raise the consciousness level of the world. It was covered massively by the media, the press, radio, television, and so it was a consciousness-raising experience. That is an advantage.

I think that the delegates felt that this was not the end, rather it was a beginning. Mr. Speaker, it was the beginning of a path that could achieve real progress over the next 5 years or perhaps 10 years.

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We found in at least three areas that I will describe the international will and the international consensus to accomplish a worthwhile objective was thwarted by a self-serving, very narrowly and perhaps selfishly directed minority of the nations there.

Unfortunately, the United Nations operates on a consensus basis. There are perfectly good reasons and it is self-evident that should be so, but in a case like this where 1 nation out of 150 feels very strongly particularly about the subject and are willing to use their muscle to produce it, they can destroy, they can rend apart that consensus and prevent the 150 nations of the world who feel deeply motivated to make progress. They can prevent them from achieving anything, and unfortunately that happened. I will describe three instances in which that took place.

The first instance was in the case of Saudi Arabia where Saudi Arabia was the one single minority voice threatening to disrupt an international consensus on the use of renewal energy.

Now, Saudi Arabia perhaps spoke for some of the other oil-producing nations of the Persian Gulf and perhaps oil producing countries elsewhere; but they are insisting, even as I speak, that the section in Agenda 21, which is the long specific agenda of the detailed projects which were being treated, that the Agenda 21 section on the use of renewable and alternative sources of energy be rewritten—imagine—be rewritten so as to remove any suggestion that alternative sources of energy, renewable sources of energy such as solar, wind, tidal, hydro, biomass, geothermal, that they be written out of the documents and that the rational, logical quest from the leaders of the developing world and the developed world alike for a more environmentally sustainable use of energy that would reduce the world's dependence on fossil fuel and particularly oil, petroleum, be reduced.

Now, Mr. Speaker, we all know that during the consideration of our energy bill in the House here only a month ago, massive attention and energy and time were devoted to reducing this country's dependence on fossil fuel, and we gave all kinds of encouragement to the application of conservation, to the application of energy efficiency, to more efficient motors, to more efficient lighting, more efficient systems of air-conditioning, heating and the like.

Here in the international arena where it is even more critically needed, especially by the leaders of the developing world, we find Saudi Arabia was using its muscle to remove any reference to the desirability of reducing the Earth's reliance or even addiction to fossil fuel that is getting us into such desperate trouble with global warning and the like around the world.

They wished to reduce also any reference to the promotion of sustainable development through energy efficiency, transportation, industrial development, stratospheric ozone depletion and transboundary air pollution.

While negotiations on the elimination of this chapter are ongoing, it defies logic for the centerpiece of the document for this environmental conference to remain silent on the issue of sustainable energy production.

There are two other instances of that same use of insistent destruction of consensus.

The second was our country's lack of forthrightness in dealing with the biodiversity convention.

The SPEAKER pro tempore (Mr. RAY). The time of the gentleman from New York has expired.

S. 250, MOTOR VOTER LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, today the Rules Committee granted a closed rule for consideration of S. 250, the Senate-passed motor voter legislation.

The rule makes in order a Republican substitute which I am including in the RECORD at this point:

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO S. 250 OFFERED BY MR. MICHEL OF ILLINOIS

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Voter Registration Enhancement Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the right to vote is a fundamental right;

(2) it is the responsibility of each citizen to exercise that right;

(3) it is the duty of the Federal, State, and local governments to promote the exercise of that right;

(4) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office;

(5) such laws and procedures can disproportionately harm voter participation in such elections by members of various groups, including racial minorities;

(6) all citizens of the United States are entitled to be protected from voter fraud and from voter registration lists that contain the names of ineligible or nonexistent voters, which dilute the worth of qualified votes honestly cast; and

(7) all citizens of the United States are entitled to be governed by elected and appointed public officers who are responsible to them and who govern in the public interest without corruption, self-dealing, or favoritism.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase registration of citizens as voters in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to enhance voter participation in elections for Federal office;

(3) to protect the integrity of the electoral process;

(4) to ensure that maintenance of accurate and current official voter registration lists; and

(5) to guarantee to the State, and to their citizens, a republican form of government, including elections conducted free of fraud, and governmental processes conducted free of corruption, self-dealing, or favoritism.

TITLE I—VOTER REGISTRATION ENHANCEMENT

SEC. 101. FEDERAL COORDINATION AND BIENNIAL ASSESSMENT.

The Attorney General—

(1) shall be responsible for coordination of Federal functions under this Act;

(2) shall provide information to the States with respect to State responsibilities under this Act; and

(3) shall, not later than June 30 of each even-numbered year, submit to the Congress a report assessing the impact of this Act on the administration of elections for Federal office during the preceding 2 calendar years and providing recommendations for improvements in Federal and State procedures, forms, and other matters affected by this Act.

SEC. 102. RESPONSIBILITY OF CHIEF STATE ELECTION OFFICIAL.

The chief State election official of each State shall be responsible for coordination of State functions under this title.

SEC. 103. VOTER REGISTRATION ENHANCEMENT BLOCK GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General—

(1) for making grants under this section for fiscal years 1992, 1993, and 1994, a total of $25,000,000; and

(2) such additional sums as may be necessary for administrative expenses of the Attorney General in carrying out this title.

(b) BLOCK GRANTS.—(1) From the amounts appropriated under subsection (a) for any fiscal year, the Attorney General shall make grants to States, through chief State election officials, for the purposes of supporting, facilitating, and enhancing voter registration.

(2) To qualify for a grant under paragraph (1), a State shall match any amount of Federal funds dollar for dollar with State funds for voter registration enhancement activities, such as, but not limited to—

(A) providing for voter registration for elections for Federal office at State departments of motor vehicles; and

(B) providing for uniform and non-discriminatory programs to ensure that official voter registration lists are accurate and current in each State.

(c) ALLOCATION OF GRANTS.—(1) The Attorney General shall by regulation establish criteria for allocation of grants among States based on—

(A) the number of residents of each State;

(B) the percentage of eligible voters in each State not registered to vote; and

(C) other appropriate factors.

(2) In promulgating criteria pursuant to paragraph (1), the Attorney General shall give special consideration to State-sponsored programs designed to improve registration in counties with voter registration percentages significantly lower than that for the State as a whole.

(d) ADMINISTRATIVE REQUIREMENTS.—(1) The Attorney General shall by regulation establish administrative requirements necessary to carry out this section.

(2) To be eligible to receive a grant under this section, a State shall certify that the State—

(A) has in place legislative authority and a plan to implement procedures to promote and facilitate, to an extent and in such manner as the Attorney General may deem adequate to carry out purposes of this title, voter registration for Federal elections in connection with applications for drivers' licenses;

(B) agrees to use any amount received from a grant under this section in accordance with the requirements of this section;

(C) agrees that any amount received through a grant under this section for any period will be used to supplement and increase any State, local, or other non-Federal funds that would, in the absence of the grant, be made available for the programs and activities for which grants are provided under this section and will in no event supplant such State, local, and other non-Federal funds; and

(D) has established fiscal control and fund accounting procedures to ensure the proper disbursement of, and accounting for, grants made to the State under this section.

(3) The Attorney General may not prescribe for a State the manner of compliance with the requirements of this subsection.

(e) REPORTS.—(1) The chief State election official of a State that receives a grant under this section shall submit to the Attorney General annual reports on its activities under this section.

(2) A report required by paragraph (1) shall be in such form and contain such information as the Attorney General, after consultation with chief State election officials, determines to be necessary to—

(A) determine whether grant amounts were expended in accordance with this section;

(B) describe activities under this section; and

(C) provide a record of the progress made toward achieving the purposes for which the block grants were provided.

SEC. 104. DEFINITIONS.

For the purpose of this title—

(1) the term "chief State election official" means, with respect to a State, the officer, employee, or entity with authority, under State law, for election administration in the State;

(2) the term "election" has the meaning stated in section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1));

(3) the term "Federal office" has the meaning stated in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)); and

(4) the term "State" has the meaning in section 301(12) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(12)).

TITLE II—PUBLIC CORRUPTION

SEC. 201. ELECTION FRAUD AND OTHER PUBLIC CORRUPTION.

(a) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 226. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), defrauds, or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of the honest services of an official or employee of the United States or the State, political subdivision, or Indian tribal government shall be fined under this title, imprisoned for not more than 20 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), defrauds, or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the jurisdiction in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title, imprisoned for not more than 20 years, or both.

"(c) Whoever, being a public official or an official or employee of the United States, a State, a political subdivision of a State, or an Indian tribal government, in a circumstance described in subsection (d), defrauds or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of the right to have the affairs of the United States, the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title, imprisoned for not more than 20 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice of attempting to do so the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) in connection with intrastate, interstate, or foreign commerce, engages the use of a facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever defrauds or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title, imprisoned for not more than 20 years, or both.

"(f) Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States, a State, a political subdivision of a State, or an Indian tribal government, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title, imprisoned for not more than 5 years, or both.

"(g) For the purposes of this section—

"(1) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a government or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) any person who has been nominated, appointed, or selected to be an official or who has been officially informed that such person will be so nominated, appointed, or selected;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201(a) and shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States; and

"(4) the term 'under color of official authority' includes any person who represents that such person controls, is an agent of, or otherwise acts on behalf of an official, a public official, or a person who has been selected to be a public official.".

(b) TECHNICAL AMENDMENTS.—(1) The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"226. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 202. FRAUD IN INTERSTATE COMMERCE.

(a) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—Section 1343 of title 18, United States Code, is amended—

(1) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "in connection with intrastate, interstate, or foreign commerce, engages the use of a facility of interstate or foreign commerce"; and

(2) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) TECHNICAL AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 203. PRESERVATION OF THE EFFECT OF STATE LAW THAT PROVIDES GREATER PROTECTION AGAINST VOTE FRAUD.

In the case of any conflict between the provisions of this Act and any provision of the civil or criminal law of any State, the law of the State shall prevail to the extent that such State law provides for more stringent suppression of vote fraud than this Act.

Amend the title so as to read "An Act to establish national voter registration procedures for Presidential and congressional elections, and for other purposes.".

A SALUTE TO FATHER DOMINIC OLIVIERI AND 50 YEARS OF SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, I am pleased to recognize Father Dominic Olivieri and commend him for his 50 years of service as a priest. Father Dom has set an example of service and public commitment which deserves the notice of the U.S. House of Representatives.

Father Dominic Olivieri will be saluted for his 50 years of service as a priest at the celebration of a Golden Jubilee Mass in his parish, the Immaculate Conception in the Bloomfield area of Pittsburgh, at 3 p.m. on Sunday, June 14, 1992. This special Mass commemorates a half century of devotion to priestly duties which began in June 1942, when Father Dominic Olivieri was ordained a priest.

On many occasions, Father Dom has shared with his parishioners and many friends in Pittsburgh an explanation of his motivations to serve as a priest for over 50 years. He has noted the lessons he learned from his parents, Louis and Christina Olivieri, who emigrated from Abruzzi, Italy, to Derry, PA. The fifth of nine surviving children, Dominic Olivieri was taught to set high standards for himself, enjoy the beauty of the God's creation, and savor the wonders of life.

As one of seven children who graduated from college, Father Dom was the only son to enter the priesthood. He graduated from St. Vincent Seminary in Latrobe, PA, in 1942, and was ordained on June 14, 1942. Over the years, he has served in a number of parishes before being named pastor in 1969 of Bloomfield's Immaculate Conception where he has served up to the present time.

Father Dom has compiled a record of outstanding accomplishment over the course of 50 years of dedicated service to local parishes. He helped in the building of the present Mount St. Peter's Church as an assistant in the New Kensington parish. He served as a loyal administrator in Bloomfield when the local pastor, Father DiFrancesco, was in poor health. At Regina Coeli, on Pittsburgh's North Side, he played a central role in working with Father Biondi in a successful effort to have the church pay off its debt. As the pastor of St. Lucy's, Mahoningtown, Father Dom was nominated Man of the Year for the energetic work he performed on behalf of the people of his parish who were victims of a flood that devastated half of the town. Following the directives of Bishop Dearden, Father Dom joined two Sharpsburg parishes, St. Joseph and Madonna, and was recognized again for his service by being selected Man of the Year by the people of Sharpsburg.

As the present pastor of Immaculate Conception Parish in Bloomfield, Father Dom has labored over the past 24 years to provide the people of his parish with service reflecting the highest standards of priestly devotion. He led a successful campaign to clear the parish ledger of the large debt held at the time he became pastor. Father Dom has given his full energy to the task of providing local parents with the option of sending their children to a Catholic school. His dynamic leadership has helped to keep open the largest school in the diocese of Pittsburgh, providing a first-class educational environment for over 500 local students.

Father Dom's record of service extends far beyond the parish confines. He serves as a chaplain of the American War Vets, and was recognized for his service by being named as Man of the Year. In addition, he serves as a chaplain for the Fraternal Order of Police.

It is hardly surprising that Father Dom would be selected Bloomfield's Man of the Year in light of his outstanding service to Immaculate Conception Parish and the community of Bloomfield. Father Dom has earned communitywide reputation for his dedication to serving every member of his parish. He has served his parish with selfless devotion and has always been ready to respond cheerfully and tirelessly to the needs of the people of this community.

Mr. Speaker, I am proud to salute Father Dominic Olivieri for his 50 years of service as a priest. I wish him the best in his continued service to the people of his parish and to our community.

OVERPOPULATION AND UNCED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. GREEN] is recognized for 5 minutes.

Mr. GREEN of New York. Mr. Speaker, I commend Mr. MILLER for requesting this special order, which provides an opportunity for those Members of Congress who recently attended the U.N. Conference on Environment and Development to share their views of that historic event.

The U.N. Conference on Environment and Development, convened in Rio De Janiero, has been 3 years in preparation with more than 170 nations and 10,000 delegates attending.

I do not disagree with the principles or the goals of the Conference; who would not agree that we need a global partnership to "protect the integrity of the global environmental and developmental system?" I am seriously concerned, however, that after reading through the overview and the 27 principles presented by the Preparatory Committee, I see that the words "overpopulation" or "voluntary family planning services" are never once mentioned.

And nowhere in the text of UNCED's chapter on "Demographic Dynamics" are the words "family planning" or "contraceptives" mentioned. Those two phrases were purposefully omitted during the course of delicate negotiations on a chapter that, with more courage and leadership, should have been called Population Stabilization.

To discuss environment without focusing on population is missing the point. Without worldwide attention to this issue, I fear for the quality of life for all earth's inhabitants.

Principle 1 does state that:

> Human beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

Principle 8 does state that:

> To achieve sustainable development and a higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies (emphasis added).

But nowhere do the UNCED principles spell out that one of the most serious threats facing our global environment is overpopulation. When we look at global warming, destruction of the tropical rain forests, and the elimination of species diversity, we must understand the connection between those phenomena and the population explosion. Money spent to address our growing environmental problems will be wasted unless we simultaneously address the population issue. Halving the per capita emission of greenhouse gases accomplishes nothing if we double the earth's human population.

It is not a connection we can leave to some future convention on the environment. The often-used phrase "before it is too late" truly applies here. At the beginning of this century, the world had approximately 1.5 billion people. Today there are almost 5.4 billion, with 95 million more added every year. Without strong leadership supporting international family planning programs, experts predict that in just 35 years the world's population is likely to double in size to 10 billion.

An invaluable resource in understanding the interrelation of population and environment has been produced by the United Nations. In its pamphlet, "Population and the Environment: The Challenges Ahead", the United Nation points out "It is unrealistic to discuss sustainable development and a common future

without reference to socioeconomic constraints and related forces impacting on the environment and the world's resources base. The debate is also meaningless if population issues are ushered to the sidelines."

Population issues not only have been ushered to the sidelines in the UNCED proposed text, they have been buried 6 feet under. And we all know the reason. It may be acceptable to talk about "appropriate demographic policies" but discussing population stabilization makes people nervous. Extreme antiabortionists have been successful in reducing U.S. support for voluntary family planning efforts around the world. They have moved their rhetoric from forced abortions to birth control counseling, but allowing this influence to pervade UNCED, makes UNCED meaningless.

Tropical forests are being destroyed at an alarming rate; about 11 million hectares a year, according to the United Nations. But, will it also point out that population growth may be responsible for up to 80 percent of recent deforestation in the tropics as growing populations slash and burn forests to scratch out a few acres to farm?

There is also the problem of dwindling and polluted freshwater resources. "In much of sub-Saharan Africa, the Middle East and parts of Asia, water consumption will reach 30–100 percent of available reserves in 10–15 years—a result of population growth and inefficiencies in use," according to the U.N. environment pamphlet. Will UNCED deal only with dwindling water and not address the causes?

I attended the UNCED conference in Rio, despite the State Department warnings of crime, cholera, and overcrowding. I went because there is a message to be delivered. And that message is:

Environmental solutions without population stabilization do not work.

In many cases, the United Nations points out, "attained family size exceeds desired family size" and more of our resources must be focused on maternal and child health care and family planning services.

We must recognize the fundamental importance of women's role in the world, especially in developing countries, where women play a pivotal role in managing the environment, but are too often overlooked in development programs.

The United States, for its part passed legislation in 1973 mandating that special attention be given to development projects aimed at better integrating women into their national economies, thus improving their status and assisting the total development effort. Nearly 20 years later, however, this concept is more often tolerated than encouraged in U.S. development planning and practice. Improving the status of women around the world means devoting the necessary resources to ensure ready access to family planning services, as well as improving access to maternal and child health care, education and employment opportunities. Women need to be a central priority in development policy, not an afterthought.

Overall, I believe the Rio Conference dodged an extremely important responsibility by failing to focus on the issue of overpopulation. It should have been insisted on by the administration. As Congressman George Bush said in 1970 when he chaired a Republican Task Force on Population and Earth Resources:

By the end of this decade, family planning and birth control should be as important to every parent as the family budget. As U.S. Representative to the United Nations George Bush said, economic development overseas would be a miserable failure unless the developing countries had the knowledge and supplies their families needed to control fertility.

To this I would add, when its all said and done, UNCED will fail if we let politics rather than science guide it in dealing with the population explosion.

On another issue, while at the conference, I had the pleasure of attending a press conference sponsored by the Consortium for International Earth Science Information Network [CIESIN]. This consortium, comprised of some of our Nation's most outstanding universities, and given the task of managing much of NASA's environmental data, proposes that our Nation lead the way in sharing environmental data. This is a laudable goal, and one in which the United States, with its wealth of data, can lead the way. CIESIN is uniquely situated to assist in this effort and I support this concept. Shared knowledge about environmental and developmental processes is the common basis for decisionmaking among all peoples, and I feel it is incumbent on our Nation to share these resources.

In closing, I should also like to include, for the RECORD, an excellent piece by Anna Quindlen entitled, "Zero Population Talk" which was printed in today's New York Times.

ZERO POPULATION TALK

(Anna Quindlen)

With each day that passes the Earth Summit begins to seem more and more like the planet versus the President of the United States. The President touts an initiative on forest protection and the developing nations say we're playing bully boys. The rest of the world agrees on a biodiversity treaty and the President says it's too expensive.

And so far George Bush has saved his greatest passion for that most critical of environmental issues: Who in blazes leaked a memo designed to embarrass the head of the Environmental Protection Agency?

So much for deforestation, global warming, the greenhouse effect and the world community. The conference does not look promising. The fact is that it has not looked promising for some time, ever since a central issue of environmental moment was taken off the table.

The issue was population growth.

It's difficult to imagine that anyone could take a serious and substantive look at the environment without considering the effect of people. We fell trees for our houses, work in factories that produce effluents, buy products that pile up in landfills, burn fuels that foul the air, produce wastes that taint the oceans.

The more of us there are, the more these things take place. It's not a simple equation; it is possible for us to learn to use fewer trees, produce less garbage, make less of a mess of things. Those are some of the issues being explored in Brazil.

But the idea that population growth would not be a linchpin of this summit is preposterous. It was also inevitable. When pre-summit bickering between developed and developing nations began, the Vatican stepped into the breach. And family planning became a no-show. No separation of church and state here. The ban on birth control espoused by the Catholic Church—but ignored by millions of its own people—has shaped the summit for those of all faiths.

For years the United States has been a leader in international family planning, and that leadership made a difference; because of American aid, the numbers of people in developing countries who use birth control has soared.

But in 1984 we enforced the first gag rule, the one that said we would end aid to any international agency that mentioned abortion, the one that sent a signal about what kind of nation we'd become. And when preparations were under way for Rio, we were so obdurate about maintaining our old life styles that we were in no position to persuade other nations to change their own. Mr. Bush, whose idea of the long view is always November, was not the man to break a deadlock on what George Zeidenstein, the president of the Population Council, described as "overpopulation versus overconsumption."

We're not simply talking about too many people here, the fact that some estimates have world population doubling in the next century on what already seems to be a "No Vacancy" planet. And we're not talking population control, the forced limitation of family size. Family size should be a matter of informed choice.

In many nations, it's not—not informed, and not a choice. In some countries, women sneak off for contraception because their husbands still consider family size a measure of their manhood. In others, contraceptives are just a rumor, a diaphragm a dream, and abortion the primary method of birth control.

All over the world there are women who want to space and limit their child-bearing, not because of the global environment but because of their own environment—the contents of their cupboards, the limits of their stamina. Their governments have been either indifferent to those needs or, influenced by religious leaders, hostile to them.

At the Earth Summit those needs are barely acknowledged, except for a clause that urges countries to adopt "appropriate demographic policies." Yet one doomsday prediction after another says that in the centuries to come untenable levels of population will be staved off only by famine, disease or wars. How can anyone think those preferable to the condom, the intrauterine device or the birth control pill? "There are too many of us," a nurse in a clinic in Africa said last month of the malnourished children of her country. There is no strong voice to speak for her, and so many others like her, at the Earth Summit. Because of that, we all lose.

THE BALANCED BUDGET AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. SANTORUM] is recognized for 60 minutes.

Mr. SANTORUM. Mr. Speaker, I am here today with my colleague, the gentleman from California [Mr. RIGGS].

For those of you who cannot sleep tonight on the East Coast or on the West Coast or maybe even just getting home from work, we have had a long day today debating the balanced budget amendment and having an opportunity

in and out of meetings and other things to listen to it. I think it was a good quality debate.

One of the things that I thought was lacking really up until the end of the debate was a good healthy exchange of ideas. It is unfortunate the hour is so late here that we could not keep some Members around that were not under the constraints of time. Every Member wanted to get their 2 minutes in, to really have some give and take and some prodding and some questioning as to what are the motives behind the efforts to either support and oppose, really true debate as opposed to everyone getting up here and either pointing the finger at the other side or sort of giving their 2 minute spiel that at least presents their opinion, instead of the interaction that true debate yields as far as enlightenment not only to Members of this body, but I am told there are some who are still undecided on this issue, but certainly the American public for the record and for those who might be observing.

The SPEAKER pro tempore (Mr. RAY). The Chair would note that the gentleman should not address the television audience.

Mr. SANTORUM. One of the reasons I wanted to get up and talk was I wanted to take the opportunity to observe that we, and I say we being Members, younger Members who have been interested in reforming this institution, have been criticized many times in our actions saying, "Why don't you address the real issues of the day down here? Why don't you get to the real substantive issues instead of"—in their opinion—"monkeying around with the institution?"

Obviously, I do not agree with their connotation of monkeying around with the institution. What I think we have done is to shine light into some areas that absolutely need to be exposed; but I wanted to take some time tonight to talk about one of the real issues, one of the real reform issues that I have been supporting since I decided to run for office back in late 1988 or early 1989, and that is the balanced budget amendment.

I cannot help but express the true sense of just bewilderment when I see 2 days back to back, 1 full day today talking about how much we want to balance the budget, and even the folks who are against the balanced budget amendment all come to the floor and say how much they want to balance this budget, yet just yesterday—yesterday, I mean, the ink is not even dry on the record, just yesterday we voted here in this House to increase the Federal deficit by almost $5 billion more.

□ 2320

Yesterday. And today we are here debating like, "Well, we are really going to get religion here and we are going to do the right thing and reduce the deficit." And as the chairman of the Committee on the Budget, for whom I have the greatest respect, the gentleman from California [Mr. PANETTA] has said many, many times, these involve tough choices. I can tell you as someone who comes from an area with very high unemployment and chronic high unemployment for a long time that a vote against unemployment extension, no matter whether I supported another version or whatever the case may be, a single vote against that is a very, very difficult vote. I did it, and I had the opportunity just yesterday before the vote, when I got a call from someone in my district who is unemployed, I picked up the phone after it rang, and he said, "I wanted to talk to Congressman Santorum." I said, "You got him." He said, "How are you going to vote on the unemployment extension?" I said, "I am going to vote against it." He said, "Well, I am unemployed. My benefits may be running out, they are not going to run out real soon but they may be running out by the end of the year, and I need that unemployment extension because of the strike situation."

And I said, "Well, certainly the problem is not that I do not support unemployment extension, everybody in this chamber supports unemployment extension. But what I cannot support is I cannot support, No. 1, raising taxes, particularly raising taxes on the people in my State disproportionately to the rest of the country, because of the way they changed the taxation by increasing the base on which you tax from $7,000 to $27,000 of salary and then lowering the rate. It penalizes high-wage States, like Pennsylvania."

But also, it increases the deficit. And I said, "It is not fair to you and to your children to not only increase taxes and make it harder for you to get a job if a job ever opens up, and, No. 2, increase the deficit on you and your children and, as a result, you have to pay more and more toward the national debt."

So I said that I could not support it. He said, "I understand. I agree with you." He said, "I would vote against it too."

So I believe that even though the panic around here is "my goodness, you can't vote against unemployment extensions, because it is politically undoable," I think we sell the American public short, I think you sell the unemployed short. These people want the benefits, sure they want their benefits, they deserve the benefits in these tough economic times. But they want to do the right thing, too. They want to make sure that we are doing the right thing here, and the right thing is to be responsible every day in this House of Representatives, every day, not just for the balanced-budget amendment when it comes up, but every day to be responsible in this chamber.

And we are not. We are simply not.

The principal reason I wanted to take this few minutes is that I wanted to talk in brief at this point with the gentleman from California. I believe the gentleman from California would like some time at this point, and I yield to him.

Mr. RIGGS. Mr. Speaker, I would be happy to stay with the gentleman as he continues his special order because I know as a valued member of the Committee on the Budget he has extensive knowledge of this particular subject area and has a real contribution to make in terms of where we might go from tomorrow, assuming the balance budget amendment does pass. We are then confronted with the further challenge of having to come up with a budget enforcement mechanism, a budget enforcement process, as well as confronted with, I think, the long-overdue need to revolutionize the budgetary process around here, to really get into more of a long-term thinking and planning mode where do, perhaps, the Federal budget on a minimum 2-year, perhaps better yet, a 5-year budget cycle, rather than this year-to-year or every 2 years election-to-election contest that we currently use.

But I do want to, at the outset, thank the gentleman for conducting this special order. I want to say to him that I realize he is most sincere in his desire to address the Federal budget deficit at the No. 1 problem facing us as an institution and as a country and society today. I know it is his concern for the Santorum children, the one that is here and the one that is on the way, that motivates him to take the well tonight and do the special order. I like to believe in my heart of hearts that it is also concern for my kids, the Riggs kids, which motivated me to run for Congress in the first place, it motivates me to make that weekly cross-country commute because I really do believe that this is all about their future. And it was out of concern for their future and, as I said earlier, the erosion of the quality of life and the fact that our generation will be fundamentally failing in our primary legacy to make the world a better place for our children than we inherited from our parents.

Those are the motivating factors that drive us to put on this special order tonight, to implore any undecided colleagues to step up and do the right thing tomorrow, to carefully consider the various amendments that we will take up under the king-of-the-hill procedure prior to the vote and final passage for a constitutional balanced budget amendment.

I also want to say to the gentleman, since I think he and I think very much alike, that we are aware of the extraordinary pressures that are brought to bear on a Member of Congress and make it very difficult to perform our

fundamental duty pursuant to the Constitution, and that is to prioritize Federal spending.

Mr. Speaker, you learn very quickly when you come back to this body, the extraordinary honor and privilege as that surely is—and it really is the opportunity and privilege of a lifetime—but you learn very quickly that there are certain inert political pressures that come with being a Member of Congress. Internally the pressure is to go along to get along. The external pressure imposed is that of a demanding public and all of our constituencies to spread the money around so that the message that comes through to a new Member is, A, do whatever it takes to come back to this place, do whatever it takes to get reelected, whatever it takes to perpetuate yourself in office.

That too often means, again, trying, as I said, trying to be all things to all people, trying to spread the Federal dole around so we give a little bit of the pie to everybody.

You learn very quickly that the way to get reelected is by saying "yes" and spending money, not by saying "no" and trying to conserve.

Mr. SANTORUM. If I might interrupt the gentleman for a moment, the point I was trying to make earlier in the debate was how many bills are sponsored in the Congress to raise spending. It is approximately a ratio of: For every 200 bills that raise spending in the Congress that we introduce in the Congress, there is 1 bill introduced to cut spending. And if you look at the vast majority—and I do not have the most recent budget tracking system that the National Taxpayers Union has put together—but it is at least 95 percent of the Members of Congress have sponsored bills which would—the net result of that 95 percent of the Members of Congress would even further increase the national debt.

What I was saying earlier was that it is even odder that the folks who are opposing the balanced budget amendment and saying that what we need is to discuss the issues, and after we get some leadership and discuss the issues we will be able to solve this problem, have sponsored on average about $128 billion more in deficit spending as a result of the bills that they would like to see become law. They have their names on it. Versus the folks who are supporting the balanced-budget amendment on average are sponsoring about $27 billion more in spending. But still that gives you an idea that at least some of the folks who are for a balanced budget are serious about reducing Federal spending. Unfortunately, some are not so serious.

I have seen, and the gentleman has cosponsored many of them—some bills that would reduce spending, and I put my name on the line. I got that question at many, many town meetings, "Well, Congressman, you said you are going to cut spending. Where are you going to cut spending? Well, then I pull out of my briefcase a stack of bills about this high, saying, "Here is where I will cut spending. Here is the budget that I put together with JOHN KASICH and TOM DELAY, JOHN MILLER, and here is where we will do it." And I hand them out. I show my constituents where we are going to cut spending and how we can begin to reduce the deficit.

I explain the problem that has been explained here so eloquently by many as to the problem. And I say to them we have to make these tough choices. I again agree with the chairman of the Committee on the Budget that you are not going to balance this deficit by cutting waste, fraud, and abuse. There is not enough waste, fraud, and abuse in this Government to balance the budget. I am convinced of that. What we have to do is we have to reform a lot of programs, we have to encourage productivity, which will help our deficit situation because it will result in growth. And what we have got to do is make very tough decisions on what we are going to spend money on and set priorities, and that is something that we just simply do not do in this place.

□ 2330

It is all well, OK. We can stick a few dollars in here and a few dollars there just to keep everybody off our backs, and I yield back.

Mr. RIGGS. Mr. Speaker, I appreciate the observations of the gentleman, and he is so right because I guess we have to honestly acknowledge that the passion for spending around this place is bipartisan and universal.

Mr. SANTORUM. No question.

Mr. RIGGS. And it is is something, as a relative newcomer to the body, one learns in the earliest days of their service, and it is an example of how far we have to go.

I mean I think the distinguished chairman of the Committee on the Budget was gracious enough to come down to the floor tonight and engage in genuine debate, and the gentleman, as a very valuable member of the Committee on the Budget, has made the stipulation operating from the premise at the outset that all Federal budget items have to be on the table. I personally believe that the balanced budget amendment and what will follow it will be very healthy for the economy and very healthy for the American political process and will go a long way toward restoring voter confidence and restoring trust in Government.

But just as an indication of how far we have to go, as the gentlenman knows, the Bush administration has proposed a means of means testing, or needs testing, for Medicare benefits. Of course they accompanied that with malpractice reform proposals that would lower Medicare costs or at least help control soaring medical costs, and specifically in the Medicare Program, but that proposal was a very modest one and, as I recall it——

Mr. SANTORUM. I will explain it exactly because I use this as an example in every town meeting I go to, and it has to do with Medicare part B, and there are two parts to Medicare. There is Medicare part A, in which every person as a working American—although as a Member of Congress we get questioned about that, but I will testify at 11:30 at night I am working American. I pay taxes into the Social Security trust fund for Medicare part A, which is basically hospitalization coverage when I retire.

There is a separate Medicare Program, Medicare part B. Medicare part B is not funded, one dime, out of the Social Security trust fund. It is not funded by payroll taxes that one pays to the Social Security trust fund. It is funded. It is a public insurance program. It is not mandatory. Anybody, if they are eligible age-wise, they are eligible to participate in this program.

But it is funded by two revenue streams. The first revenue stream is by premiums paid by retirees. Retirees pay $31.80 a month for Medicare part B coverage. In fact, the $31.80 that seniors pay covers 25 percent of the cost of the program. The other 75 percent is taken from the general fund, from general revenues, and we have a situation where we have a family of four, parents, and maybe both have minimum wage jobs, no health insurance, barely making it, probably have some sort of assistance from the Government to begin with, paying taxes into the Federal Government.

So, Ross Perot could buy Medicare part B and be subsidized at 75 percent of the cost of that, and most people, when I tell them that at my town meetings, say, "That's outrageous. There is no way people with high incomes need to get that kind of subsidy from the regular, ordinary taxpayer," and I say to them, "Well, the President put together a very modest proposal. We modified it a little bit. Our proposal was starting at $70,000 per couple—now you have a couple, age 65 or older, earning $75,000 a year. We begin at that point, $70,000 a year. We begin at that point to increase the premium ever so slightly. So, at $80,000 a year, you're probably paying $40 a month for this program, up to $200,000 of income. At $200,000 you pay the full fare, $120, or something like that which still, by the way, and I've checked with some insurers, is a good deal. At that point you're on your own."

It just has no political support in this body, none.

Mr. RIGGS. Mr. Speaker, if the gentleman will yield for just a moment, my recollection is we have been through two budget cycles, or we are nearly through the second cycle since we came here in January of last year.

Both times the administration has proposed this form of needs testing, or means testing actually, for Medicare part B benefits, and, as the gentleman put it, it is a very modest proposal. Both times these proposals have been declared political nonstarters on Capitol Hill.

Mr. SANTORUM. That is absolutely right, and the reaction I get from people is just amazement that we cannot pass something that is just a real minor reform, and, to be perfectly candid with the gentleman, but yet a very principled reform, but we hear all the arguments about fairness. My goodness, what is fair about families without health insurance subsidizing people that are making hundreds of thousands and maybe even millions of dollars a year in their health insurance bills?

I mean that is absolutely absurd that something like that goes on, and I say to people, "if you think that's bad, of the $700 billion to almost $800 billion in entitlement programs, what are listed as entitlement programs in the Federal Government, whether they be agriculture, or retirement, or unemployment compensation, just name it, all the entitlement programs, aid to families with dependent children, just name it; all those programs of the nearly $800 billion that is spent," I ask people, "How much of that money do you think—how much of that $800 billion goes to people at or below the poverty level, because that's what these programs are supposed to be about. They're supposed to be poverty programs."

Well, Mr. Speaker, people say, "Oh, I don't know; half or maybe 25 percent," because they are cynical, and I say, "How about 12 percent? How about $1 out of every $8 goes to people at or below the poverty level?"

Now these were supposed to be safety net programs, and they have not—they have sort of transformed into safety net programs, and my theory on that is they transform into middle class entitlement programs in a sense because that is where most of the votes are, and if we can keep that money coming, then we can make sure that we can maintain it. I know the control and the political electability of keeping those benefits coming to those folks.

Mr. Speaker, that to me is again the kind of cynicism that goes on around her that I think the American public is fed up with. I think they want tough choices. I have had person after person come up to me after my meetings and say, "You know, you're absolutely right. You know, I don't need to have this kind of benefit and, you know, I take it because I'm a good consumer and I should take it," and I certainly do not fault the people for doing so.

However, Mr. Speaker, we have a responsibility for future generations, not to allow that kind of largess, in some instances, to punish future generations.

Mr. RIGGS. I agree with the gentleman. If the gentleman will yield, I think the American people, and this is a real strong sense derived from 38 town hall meetings in 18 months, but I think the American people are willing to make sacrifices provided that we demonstrate the leadership from here and provided also that we set a personal example by tightening our own belts, and by that I mean the money we spend on ourselves, the legislative branch appropriation.

Mr. Speaker, this was certainly an issue in 1990 when the Congress granted itself a pay raise, a substantial increase, 40 percent or better, and the issue then was not whether or not the salary was commensurate with the duties and responsibility of the position.

Having been here, having performed those duties and responsibilities for 18 months, I have to say that I believe the salary rate or the level of compensation is commensurate with the duties and responsibilities of the position. But the message that we were sending to the American people at a time of record deficits is that we were unwilling to tighten our own belts, and we were unwilling to set a permanent example of what must follow if we are going to get the Federal budget in balance.

I also view this, and I sort of whispered it in the ear of gentleman from California [Mr. ROHRABACHER], and he used this in his final comments as we ended the debate. But I really view the balanced budget legislation as a congressional empowerment act for a lack of a better term.

□ 2340

I am absolutely convinced that this legislation, assuming that it passes the House tomorrow, that it is passed by the other body, and then ratified by 38 or more States, I really believe that this legislation will empower the Members of Congress to deal with other policy issues, whether we are talking about congressional reform, health care reform, as several Members in the debate earlier today alluded to the fact that we must control soaring medical costs because it is a very expensive and ever-increasing item of the Federal budget, as the gentleman from the Committee on the Budget well knows and just alluded to in his comments regarding the Medicare Program.

It will also help us again I think take a healthy look and reexamine our own internal budgetary process. Fundamentally and ultimately it will probably lead to this body, through its Committee on the Budget, reexamining how we perform and deliver basic governmental services. And we are going to have to become obviously, as the gentleman well knows, much more entrepreneurial in the delivery of those services.

My pet peeve is it will at least put some credibility behind the statements you hear all too frequently in this body and the other body about demanding reciprocity in trade.

I hear Members out there all the time saying that free trade means fair trade. But as long as we are going to foreign investors and asking them to finance our deficit, I seriously question how much credibility those statements have, how much leverage we have in trade negotiations.

I am sure the gentleman agrees with me that it is very uncommon for a consumer to walk into a bank and dictate the terms by which they will borrow money from the lender. That is essentially the kind of situation we have now, particularly as we look to the Japanese to finance our budget deficit.

So the ultimate ramifications of this bill are vast indeed. It will surely be probably more than anything else we could do, including term limits or truly fundamental campaign finance reform, is empower Members of Congress to go about their business and perform their basic financial responsibilities.

Mr. SANTORUM. I want to pick up on that empowerment theme, because, the gentleman from Wisconsin [Mr. OBEY] quoted a gentleman, Archie, and I can't recall his last name, I think it was Cutler, but the last part of the quote was the important thing is what men do with any kind of system you might have.

Well, that is true. The important thing is the character and what we actually do here. But the rules we play by are certainly very important to find out, the result of what men can do, and what men through whatever motivation is necessary are forced to do. That is something that was sort of brushed over.

I mean, if we had a system that specifically said, you know, it does not require a balanced budget, and in fact encourages you not to balance the budget, maybe if we had a constitutional amendment that says the budget would be out of balance by such and such a percent, you would have a field day.

Whatever mechanism is set up, we see this in the Committee on Rules all the time. I mean, the rules of how a place is governed dictate in many instances what happens and what comes out of the institution.

I think the rule of requiring fiscal discipline and forcing Members to make those tough choices, I mean deficits, certainly deficits of this size, other than in wartime, where just really unheard of in the early years of the democracy, and really it is a rather recent phenomena.

When we did have deficits we quickly paid them off in subsequent years, because that was sort of expected. This is a very recent phenomena. This Congress has to change as, unfortunately, this country is changed, and I think that gets back into a whole lot of things as far as the political environ-

ment and your accountability and a whole lot of other things.

If the gentleman would like some more time?

Mr. RIGGS. I would just like to follow up on the last comment the gentleman made, and that is one of the other things, and I know this is the eternal optimist in me speaking, but one other thing that I hope will come from this process, this balanced budget act leading to congressional empowerment, is that perhaps Members of Congress at long last will be able to summon the will and demonstrate the leadership ability to address the many perverse incentives that permeate American society today. Whether we are talking about a tax policy that awards consumption and spending over savings and investment, or a political process, such as we have, and make no mistake about it, budgeting decisions around this place are primarily influenced in terms of discretionary funds by political considerations.

We have a political process in this country today that rewards spending, or increasing spending, and cutting taxes. That is a chief contributing cause of how we have gotten into this mess.

So eventually, and I hope sooner than later, we are going to have to change the budgeting process of the Federal Government to one that is much more performance-based. That is to say, we are going to have to make budgetary decisions based on competition and results, and much less on seniority, connections, and political input, which is how budgeting decisions are made at the present time.

So I commend the gentleman for his leadership in this regard and will happily follow his lead as we press on beyond the balanced budget amendment and try to get fundamental budget reform in the House of Representatives.

Mr. SANTORUM. I thank the gentleman. One of the things I was saying in a lot of the talks I gave and radio interviews I gave during the time of the bank scandal, I said, in fact I said on the "Phil Donohue Show" when the people seemed to be very excited and riled up and angry with what was going on here in the Congress and the perks that were handed out and the abuses at the bank, and people had real passion and real fire in their eyes.

And I said to them, I said, "I hope you have that same passion when it comes to important issues that we face here in the Congress, and that you write your Congressman and call them up and express that passion for this instance, for the real reforms that are necessary in this Congress."

What I am hearing, and I have not gotten any calls personally on this, but what I am hearing is that the special interests are at work. That the phone calls are coming in through the score tactics of the special interests.

I take this as our failure. I take this as the failure of the people of America. I take it as our failure to better communicate the message that I think is necessary to reach people, that we have not communicated to America somehow what we are doing here and how important it is. We have debates on the floor of the House, but somehow that message does not permeate out as it did maybe with the bank scandal.

I was looking up at the gallery most of the day, and I did not see any media up there covering what I think is a very historic debate. There was nobody up there.

My goodness, when we were talking about the bank scandal it was SRO up there. That is a pretty sad commentary on the media and the media's obligation in my opinion to at least give the opportunity for the American public to get as excited about reform of their budgetary system in this country as they are about reform of their House banking system in this country.

I want to thank the gentleman for taking the time to be with me here and communicating for the purpose of the RECORD what our feelings are and how important it is to do that.

In closing, I wanted to talk just briefly about the reason that I think the balanced budget is so important. It is this little lady right here who is sitting in a wash basin. Her name is Elizabeth Ann Santorum. She is 14 months old now.

I took the liberty of looking at Elizabeth's future when it comes to the financial affairs of this country.

When Elizabeth was born on April 9, 1991, her share of the national debt was about $15,000. She came into this world in debt, as every American comes into this world in debt. We had a $3.6 trillion debt.

When my little girl goes to first grade, she is going to owe roughly $20,000.

□ 2350

The debt will be over $5 trillion. When my little girl gets out of grade school, she will owe $26,000, and the debt will be over $7.29 trillion.

By the way, these are very conservative estimates. They include Social Security surpluses. They include just about everything.

We tried to make the most conservative estimates we could. When she graduates from high school, very proud, as I am sure I will be of her, $32,000 she will owe toward the national debt.

By the way, we are adjusting for population increases. So as the population is growing, it is still, the deficit outpaces.

Finally, when Elizabeth Anne graduates from college, as I hope she will, she will owe $36,000, in addition probably three or four times that amount in student loans. And the national debt will be $11 trillion. That is if we do nothing today and tomorrow.

That is if we stand up and give all the reasons to say no again. If we stand up and say the special interests are just too powerful, coming back here, getting reelected is just too important to me.

Say to those people who are on the phone, who are calling saying, "Please don't pass this balanced budget amendment because it may some day in the future result in some change of Social Security, God knows what." I think you and I both know that will not happen, but the fear is out there.

I would suggest to them to look not at my little girl but look in the faces of their children and their grandchildren who, by the way, if we look at where the Federal money is spent in this country, Federal spending per capita on children, the most recent figures I could come up with was 1987, per child we spent in this country $854 per child on Federal Government spending. Per person over 65, we spent $10,010, over 10 to 1.

Look that child in the face, your grandchild, your niece, and say, "It is more important for me than for you to not leave you an opportunity to have at least the same quality of life, the same chances, not better, because it is getting harder out there, not better, just the same as I had."

I can tell my colleagues every meeting I go to, my generation is not counting on Social Security. They are not counting on it at all. They know that 50, 60 years from now it may not be around.

Consider the little ones, the ones that do not have the special interests calling. Consider them.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. NICHOLS (at the request of Mr. MICHEL), for today and the balance of the week, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SANTORUM) to revise and extend their remarks and include extraneous material:)

Mr. SANTORUM, for 60 minutes, today, and for 5 minutes on June 11.

Mr. MICHEL, for 5 minutes, today.

(The following Members (at the request of Mr. STENHOLM) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

Mr. JONTZ, for 60 minutes, today.

59-059 O—97 Vol. 138 (Pt. 10) 40

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SANTORUM) and to include extraneous matter:)

Mr. GREEN of New York.
Mr. MACHTLEY.
Mr. GILMAN.
Mr. BEREUTER.
Mr. MCEWEN.
Mr. ZIMMER.
Mr. ROS-LEHTINEN.
Mr. HOPKINS.
Mr. FAWELL.
Mr. RITTER.

(The following Members (at the request of Mr. STENHOLM) and to include extraneous matter:)

Ms. PELOSI in two instances.
Mr. FEIGHAN.
Mr. TRAXLER.
Mr. SWETT.
Mr. HOYER.
Mr. KOSTMAYER.
Mr. TORRES.
Mr. SCHEUER.
Mr. CARDIN.
Mr. GUARINI.
Mr. PEASE.
Mr. JACOBS.
Mr. BRYANT.
Mrs. LOWEY of New York in two instances.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 273. Joint resolution to designate the week commencing June 21, 1992, as "National Sheriffs' Week"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1642. An act to establish in the State of Texas the Palo Alto Battlefield National Historic Site, and for other purposes;

H.R. 1917. An act for the relief of Michael Wu; and

H.R. 2556. An act entitled the "Los Padres Condor Range and River Protection Act."

ADJOURNMENT

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

The motion was agreed to, accordingly (at 11 o'clock and 55 minutes p.m.) the House adjourned until tomorrow, Thursday, June 11, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executives communications were taken from the Speaker's table and referred as follows:

3728. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the fiscal year 1992 security assistance program allocations; foreign military financing grants (FMF-G); to the Committee on Appropriations.

3729. A letter from the Under Secretary of Defense, transmitting notification for funding to test conventional defense equipment manufactured by major allies of the United States, pursuant to 10 U.S.C. 2350a(g); to the Committee on Armed Services.

3730. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Review of Receipts and Disbursements of the Office of the Public Service Commission's Agency Trust Fund," pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

3731. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting its quarterly report concerning human rights activities in Ethiopia, covering the period January 15 through April 14, 1992, pursuant to Public Law 100-456, section 1310(c) (102 Stat. 2065); to the Committee on Foreign Affairs.

3732. A letter from the Under Secretary of State for Management, transmitting the International Narcotics Control Program for fiscal year 1992 financial plan, pursuant to 22 U.S.C. 2291(b)(2); to the Committee on Foreign Affairs.

3733. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Kenneth L. Brown, of California, Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Ghana, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3734. A letter from the Corporation for Public Broadcasting, transmitting a copy of the semiannual report on activities of the inspector general for the period October 1, 1991 through March 31, 1992, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3735. A letter from the inspector general, Office of Personnel Management, transmitting a copy of the semiannual report on activities of the inspector general for the period October 1, 1991 through March 31, 1992, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3736. A letter from the Chairman, Panama Canal Commission, transmitting a copy of the semiannual report on activities of the inspector general for the period October 1, 1991 through March 31, 1992, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3737. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3738. A letter from the Federal Prison Industries, Inc., Department of Justice, transmitting the fiscal year 1991 annual report of the board of directors of Federal Prison Industries, Inc., pursuant to 18 U.S.C. 4127; to the Committee on the Judiciary.

3739. A letter from the U.S. Coast Guard, Department of Transportation, transmitting a report on options to prevent exotic species from entering U.S. waters in ships' ballast water, pursuant to Public Law 101-225, section 207(a) (103 Stat. 1913); to the Committee on Merchant Marine and Fisheries.

3740. A letter from the Secretary of Transportation, transmitting a biennial report, "The Status of the Nation's Local Mass Transportation: Performance and Conditions," pursuant to 49 U.S.C. 308(e); to the Committee on Public Works and Transportation.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SOLARZ (for himself, Mr. HAMILTON, Mr. GILMAN, Mrs. MORELLA, Mr. RANGEL, Mr. LEWIS of Georgia, and Mr. BERMAN):

H.R. 5360. A bill to reaffirm the obligation of the United States to refrain from the involuntary return of refugees outside the United States; jointly, to the Committees on Foreign Affairs and the Judiciary.

By Mr. ENGEL:

H.R. 5361. A bill to establish an agency to coordinate activities related to exports; jointly, to the Committees on Foreign Affairs, Banking, Finance and Urban Affairs, and Energy and Commerce.

By Mr. GLICKMAN:

H.R. 5362. A bill to amend the Federal Aviation Act of 1958 relating to general aviation accidents; jointly, to the Committees on Public Works and Transportation, the Judiciary, and Energy and Commerce.

By Mr. HAYES of Illinois (for himself, Mr. HORTON, Mrs. BYRON, Mr. GILMAN, Mr. MCCLOSKEY, Mr. MCNULTY, and Mrs. COLLINS of Michigan):

H.R. 5363. A bill to amend title 39, United States Code, to permit essential civilians supporting military operations, in an overseas area designated by the President, to mail at no cost, letters or recorded communications of a personal nature; to the Committee on Post Office and Civil Service.

By Mr. KOSTMAYER:

H.R. 5364. A bill to direct the Secretary of Health and Human Services to conduct a study of the feasibility and desirability of exempting services furnished to individuals who are over 21 and under 65 years of age in private freestanding psychiatric hospitals from the rule prohibiting Federal financial participation under title XIX of the Social Security Act for services furnished to such individuals in an institution for mental diseases, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KOSTMAYER (for himself, Mr. MILLER of California, Mr. VENTO, Mr. DORGAN of North Dakota, Mr. PETRI, Mr. ZIMMER, and Mr. ANDREWS of Maine):

H.R. 5365. A bill to amend the Reclamation Project Act of 1939 to reform irrigation assistance repayments and to require the Secretary of the Interior to redetermine the ability of irrigators to repay construction charges at least every 5 years; to the Committee on Interior and Insular Affairs.

By Mr. LEACH (for himself, Mr. DURBIN, Mr. NUSSLE, Mr. EMERSON, Mr. NAGLE, Mr. PENNY, Mr. LIGHTFOOT, Mr. GRANDY, Mr. MICHEL, Ms. MOLINARI, Mr. JONTZ, Mr. COLEMAN of Missouri, Mr. BILIRAKIS, Mr. TALLON, Mr. DORGAN of North Dakota, Mr. SLATTERY, Mr. WALSH, Mr. PETERSON

of Minnesota, Mr. BEREUTER, Mr. JOHNSON of South Dakota, Mr. ALLEN, Mr. EVANS, Mr. BOEHNER, Ms. NORTON, Mr. COX of Illinois, Mr. LANCASTER, Ms. LONG, Mr. ATKINS, Mr. HASTERT, Mr. BRUCE, and Mrs. MEYERS of Kansas):

H.R. 5366. A bill to require that all Federal printing be performed using cost-competitive inks whose pigment vehicles are made entirely from soybean oil, and for other purposes; jointly, to the Committees on House Administration and Government Operations.

By Ms. OAKAR:

H.R. 5367. A bill to provide for cost-of-living adjustments in 1993 under certain Government retirement programs; jointly, to the Committees on Post Office and Civil Service, Armed Services, Foreign Affairs, Intelligence (Permanent Select), and Energy and Commerce.

By Mr. OBEY:

H.R. 5368. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes; to the Committee on Appropriations.

By Mr. PAYNE of Virginia:

H.R. 5369. A bill to modify the boundary of Appomattox National Historical Park; to the Committee on Interior and Insular Affairs.

By Mr. ROBERTS (for himself, Mr. POSHARD, Mr. THOMAS of Wyoming, Mr. WILLIAMS, Mr. ESPY, Mr. SYNAR, Mr. LANCASTER, Mr. PAYNE of Virginia, and Mr. JOHNSON of South Dakota):

H.R. 5370. A bill to amend the Public Health Service Act and title XVIII of the Social Security Act with respect to health professional shortage areas; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. SANTORUM:

H.R. 5371. A bill to suspend until January 1, 1995, the duty on n-butylisocyanate; to the Committee on Ways and Means.

H.R. 5372. A bill to suspend until January 1, 1995, the duty on cyclohexylisocyanate; to the Committee on Ways and Means.

By Mr. ORTON:

H.J. Res. 506. Joint resolution proposing an amendment to the Constitution of the United States relating to the election of the President and Vice President; to the Committee on the Judiciary.

By Mr. HOYER (for himself, Mr. WOLF, Mr. MCMILLEN of Maryland, Mrs. MORELLA, Mr. CARDIN, Mrs. BENTLEY, and Mr. MORAN):

H. Con. Res. 331. Concurrent resolution authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby; to the Committee on Public Works and Transportation.

By Mr. ROBERTS:

H. Res. 478. Resolution to establish a panel of constitutional experts to recommend to the House an appropriate process for its selection of a President under the 12th and 20th articles of amendment to the Constitution; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

485. The SPEAKER presented a memorial of the House of Representatives of the State of Hawaii, relative to "Japan-Bashing" and "America-Bashing"; jointly, to the Committees on Ways and Means, the Judiciary, and Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 258: Ms. PELOSI.

H.R. 784: Mr. MCCLOSKEY and Mr. DORNAN of California.

H.R. 806: Mr. BROWN.

H.R. 815: Mr. SANGMEISTER.

H.R. 911: Mr. PACKARD.

H.R. 1244: Mr. ENGEL.

H.R. 1443: Mr. HOCHBRUECKNER and Ms. KAPTUR.

H.R. 1473: Mr. STALLINGS.

H.R. 1536: Mr. SHAW.

H.R. 1916: Mr. ROE.

H.R. 2070: Mr. GUARINI and Mr. SWETT.

H.R. 2083: Mr. LEVIN of Michigan.

H.R. 2248: Mr. STUDDS.

H.R. 2966: Mr. OBERSTAR.

H.R. 3071: Mr. STALLINGS, Mr. COX of California, and Mr. ALLEN.

H.R. 3164: Mr. LIPINSKI, Mr. WALSH, and Mr. HAYES of Illinois.

H.R. 3258: Mr. RAY.

H.R. 3311: Mr. MCCOLLUM.

H.R. 3373: Mr. GRANDY and Mr. RITTER.

H.R. 3471: Mr. FISH.

H.R. 3477: Mr. GALLO.

H.R. 3598: Mr. LIPINSKI.

H.R. 3871: Mr. RAVENEL, Mr. ABERCROMBIE, Mr. MANTON, Mr. POSHARD, Mr. MACHTLEY, Mr. SCHEUER, Mr. LIPINSKI, Mr. MRAZEK, and Mr. SABO.

H.R. 3986: Mrs. BOXER.

H.R. 3989: Mr. FISH.

H.R. 3992: Mr. FISH.

H.R. 4008: Mr. FOGLIETTA, Mr. ENGEL, Mr. BUSTAMANTE, and Mr. ZELIFF.

H.R. 4031: Mr. BROWN.

H.R. 4034: Mr. FISH.

H.R. 4083: Mr. COYNE and Mrs. LLOYD.

H.R. 4104: Mr. HYDE.

H.R. 4176: Mr. LAUGHLIN.

H.R. 4208: Mr. MCDERMOTT.

H.R. 4275: Mr. OWENS of New York, Mr. LANTOS, Mr. SWETT, and Mr. SMITH of New Jersey.

H.R. 4320: Mr. TOWNS, Mr. WILSON, Mr. TORRES, Mrs. SCHROEDER, and Ms. DELAURO.

H.R. 4571: Mr. BROWN, Mr. SANGMEISTER, Mr. ATKINS, Mr. SERRANO, and Mr. HAYES of Illinois.

H.R. 4595: Mr. LAGOMARSINO and Mr. WOLF.

H.R. 4600: Mr. ZIMMER.

H.R. 4601: Mr. ZIMMER.

H.R. 4602: Mr. ZIMMER.

H.R. 4603: Mr. ZIMMER.

H.R. 4604: Mr. ZIMMER.

H.R. 4605: Mr. ZIMMER.

H.R. 4606: Mr. ZIMMER.

H.R. 4608: Mr. ZIMMER.

H.R. 4609: Mr. ZIMMER.

H.R. 4689: Mr. COX of California, Mr. KASICH, Mr. DOOLITTLE, and Mr. BROWN.

H.R. 4790: Mr. DEFAZIO, Mr. PAXON, Mr. WALSH, Mr. QUILLEN, Mrs. SCHROEDER, Mr. TRAXLER, Mr. KOPETSKI, Mr. ZELIFF, Mr. EWING, and Mr. SCHUMER.

H.R. 4961. Mr. DOOLITTLE.

H.R. 5000: Mr. GILCREST.

H.R. 5010: Mr. BEILENSON, Mr. HAYES of Illinois, and Mr. BUSTAMANTE.

H.R. 5014: Mr. BEREUTER, Mr. NAGLE, Mr. KLUG, and Mr. DINGELL.

H.R. 5024: Mr. DIXON, Mr. TRAXLER, Mr. BATEMAN, Mr. CLEMENT, Mr. QUILLEN, and Mr. BONIOR.

H.R. 5124: Mr. HYDE and Mr. OWENS of New York.

H.R. 5126; Mr. ABERCROMBIE, Mr. BOEHLERT, Mr. CALLAHAN, Mr. CONDIT, Mr. DINGELL, Mr. DWYER of New Jersey, Mr. GEKAS, Mr. GREEN of New York, Mr. HOAGLAND, Mr. JENKINS, Mr. KLECZKA, Mr. LAROCCO, Mr. LENT, Mr. MICHEL, Mr. RITTER, Mr. SCHUMER, Mr. SMITH of Oregon, Mr. VISCLOSKY, Mr. WILLIAMS, Ms. MOLINARI, Mr. GEPHARDT, Mr. KASICH, Mr. BILBRAY, Mr. BUSTAMANTE, Mr. CARR, Mr. DAVIS, Mr. DOWNEY, Mr. FAZIO, Mr. GEREN of Texas, Mr. HERTEL, Mr. HOBSON, Mr. JOHNSON of Texas, Mr. LAFALCE, Mr. LEHMAN of California, Mr. MCGRATH, Mr. MOORHEAD, Mr. ROGERS, Mr. SIKORSKI, Mr. THOMAS of Georgia, Mr. WHEAT, Mr. WOLPE, Mr. FROST, Mr. ROWLAND, and Mr. HAMMERSCHMIDT.

H.R. 5155: Mr. KOPETSKI and Mr. SOLOMON.

H.R. 5209: Mr. HAYES of Illinois.

H.R. 5219: Mr. EVANS and Mr. BUSTAMANTE.

H.R. 5229: Mr. BALLENGER, Mr. HANCOCK, Mr. ALLEN, Mr. THOMAS of Wyoming, Mr. KYL, Mr. BUNNING, Mr. DELAY, Mr. BOEHNER, Ms. ROS-LEHTINEN, Mr. ZELIFF, Mr. DOOLITTLE, and Mr. GINGRICH.

H.R. 5240: Mr. WALSH, Mr. BOEHLERT, Mr. BILIRAKIS, Mr. ROBERTS, Ms. SLAUGHTER, Mr. KLUG, Mr. STUDDS, Mr. SUNDQUIST, Mr. COX of California, Mr. GUNDERSON, and Mr. SHAYS.

H.R. 5258: Mr. BALLENGER, Mr. DANNEMEYER, Mr. GILCHREST, Mr. HENRY, Mr. MCGRATH, Mr. HORTON, Mr. INHOFE, Mr. ZELIFF, Mr. RITTER, Mr. SENSENBRENNER, Mr. AUCOIN, Mr. BUSTAMANTE, Mr. JOHNSON of South Dakota, Mr. HALL of Ohio, Mr. JONES of Georgia, Mr. MANTON, Mr. MAVROULES, Mr. KENNEDY, Mr. MCCURDY, Mrs. MINK, Mr. OBERSTAR, Mr. PENNY, Mr. SISISKY, Mr. PRICE, Mr. SWIFT, and Mr. TOWNS.

H.R. 5263: Mr. COLORADO.

H.R. 5282: Mr. BUSTAMANTE and Mr. FEIGHAN.

H.R. 5325: Mr. COUGHLIN and Mr. MCEWEN.

H.J. Res. 239: Mrs. MEYERS of Kansas.

H.J. Res. 271: Mr. DE LA GARZA, Mr. BOEHLERT, Mr. SKAGGS, Mr. KOPETSKI, Ms. KAPTUR, Mr. MORAN, Mr. PAYNE of Virginia, Mr. GEREN of Texas, Mr. MCCURDY, Mr. BEVILL, Mr. PASTOR, Mr. BEILENSON, Mrs. BOXER, Mr. FAZIO, Mr. LANTOS, Mr. MARTINEZ, Mr. WAXMAN, Mr. MCMILLEN of Maryland, Mr. SWETT, Mr. LAUGHLIN, and Mr. HAMMERSCHMIDT.

H.J. Res. 351: Mr. FISH.

H.J. Res. 391: Mr. MCCLOSKEY and Mr. KOLTER.

H.J. Res. 455: Mr. LIPINSKI, Mr. ARCHER, Mr. CALLAHAN, Mr. CLEMENT, Mr. COLEMAN of Texas, Mr. BENNETT, Mr. RANGEL, Mr. ESPY, Mr. GINGRICH, Mr. GRANDY, Mr. EDWARDS of Texas, Mr. DOOLITTLE, Mr. DE LUGO, Mr. KASICH, and Mr. GEREN of Texas.

H.J. Res. 469: Mr. BEVILL, Mr. VENTO, Mr. SANGMEISTER, Ms. DELAURO, Mr. DYMALLY, Mr. MCDERMOTT, Mr. DARDEN, Mr. SHAW, Mr. LEWIS of Georgia, Mr. COLEMAN of Texas, Mr. EMERSON, Mr. DEFAZIO, Mr. ACKERMAN, Mr. WAXMAN, and Mr. LEVINE of California.

H.J. Res. 476: Mr. DOWNEY, Mr. DEFAZIO, Mr. BRUCE, Mr. HAMMERSCHMIDT, and Mr. FOGLIETTA.

H.J. Res. 478: Mr. EVANS, Mr. BUSTAMANTE, Mr. HALL of Ohio, and Mr. DINGELL.

H.J. Res. 479: Mr. HUGHES, Mr. QUILLEN, Mr. SANGMEISTER, Mr. BUSTAMANTE, and Mr. TORRICELLI.

H.J. Res. 486: Mr. WAXMAN, Mr. HAMMERSCHMIDT, Mr. GILCHREST, Mr. LENT, Mr. RANGEL, Mr. MCDERMOTT, Mr. MORAN, Mr. KASICH, Mr. BORSKI, Mr. BREWSTER, Mr. HAMILTON, Mr. PICKETT, Mr. STOKES, Mr. JEFFERSON, Mr. SHAYS, Mr. BARTON of Texas, Ms. NORTON, Mr. MONTGOMERY, Mr. OBERSTAR, Mr. HERTEL, Mr. GUNDERSON, Mr. DE LA GARZA, Mr. CONDIT, Mr. LIVINGSTON, Ms. SNOWE, Mr. KILDEE, Mr. TAYLOR of North Carolina, Mr. ROHRABACHER, Mr. WISE, Mr.

PERKINS, Mr. KOPETSKI, Mr. NAGLE, Mr. MCMILLEN of Maryland, Mr. COLEMAN of Texas, Mr. SMITH of Florida, Ms. PELOSI, Mr. DORNAN of California, Mr. MARTIN, Mr. BLILEY, Mr. COX of California, Mrs. MINK, Mr. FAWELL, Mr. GILMAN, Mr. HUNTER, Mr. HYDE, Mr. PURSELL, Mr. LEWIS of Florida, Mr. MCCRERY, Mr. MCGRATH, Mr. MCCOLLUM, Mr. MCDADE, Mr. INHOFE, Mr. EMERSON, Mr. PAXON, Mr. QUILLEN, Mr. MFUME, Mr. LEWIS of California, Mr. RINALDO, Mr. RHODES, Mr. RIGGS, Mrs. JOHNSON of Connecticut, Mr. MAZZOLI, Mr. TOWNS, Ms. HORN, Mr. GUARINI, Mr. BUSTAMANTE, Mr. ESPY, Mr. HOCHBRUECKNER, Mr. LAFALCE, Mr. LIPINSKI, Mr. STARK, Mr. FAZIO, Mr. CHAPMAN, Mr. FALEOMAVAEGA, Mr. HASTERT, Mr. ROEMER, Mr. SISISKY, Mr. FROST, Mr. RAMSTAD, Mrs. VUCANOVICH, Mr. CAMP, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. MCCLOSKEY, Mr. WYLIE, Mr. BATEMAN, Mr. HORTON, Mr. RAVENEL, Mr. HANSEN, Mr. BENNETT, Mr. COBLE, Mr. SCHAEFER, Mr. WALSH, Mr. JONES of Georgia, Mr. WEISS, Mr. YATRON, Mr. ASPIN, Mr. BERMAN, Mr. BILBRAY, Mr. COSTELLO, Mr. CLEMENT, Mr. DICKS, Mr. DELLUMS, Mr. DIXON, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. EVANS, Mr. GEREN of Texas, Mr. CONYERS, Mr. MOAKLEY, Mr. MURPHY, Mr. ROE, Mr. SABO, Mr. SAVAGE, Mr. SCHEUER, Mr. SERRANO, Mr. SHARP, Mr. SKELTON, Mr. SOLARZ, Mr. VOLKMER, Mrs. UNSOELD, Mr. OWENS of New York, Mr. TRAXLER, Mr. TORRICELLI, Mr. SLATTERY, Mr. SPRATT, Mr. STAGGERS, Mr. WOLPE, Mr. MCNULTY, Mr. NATCHER, Mr. NEAL of North Carolina, Mr. PRICE, Mr. BACCHUS, Mr. CALLAHAN, Mr. THOMAS of Georgia, Mr. BUNNING, Mr. SHAW, Mr. WEBER, Mr. SAXTON, Mr. MAVROULES, Mr. TORRES, Mr. SCHIFF, Mr. REGULA, Mr. VANDER JAGT, Mr. IRELAND, Mr. GINGRICH, Mr. COUGHLIN, Mr. GEKAS, and Mr. SKEEN.

H.J. Res. 495: Mr. STOKES, Mr. SOLOMON, Mr. FROST, Mr. SANGMEISTER, Mr. BUSTAMANTE, and Mr. SAXTON.

H. Con. Res. 298: Mr. SCHIFF, Ms. MOLINARI, Mr. KOPETSKI, Mr. WOLPE, Mr. STOKES, Mrs. BOXER, Mr. JOHNSTON of Florida, Mr. BURTON of Indiana, Mr. DURBIN, Mr. EVANS, Mr. LANCASTER, Mr. HUGHES, Mr. GLICKMAN, Mr. GILLMOR, Mr. JEFFERSON, Mr. FISH, Mr. SHAW, and Mr. PAXON.

H. Con. Res. 316: Mr. MCHUGH, Mr. LIGHTFOOT, Mr. SISISKY, Ms. DELAURO, Mr. FASCELL, Mrs. KENNELLY, Mr. GEPHARDT, Mr. MILLER of Washington, Mr. SMITH of New Jersey, and Mr. BURTON of Indiana.

H. Con. Res. 321: Mr. LANCASTER, Mr. PAYNE of Virginia, Mr. MARLENEE, Mr. ESPY, and Mr. JOHNSON of South Dakota.

H. Con. Res. 325: Mrs. SCHROEDER, Mr. KOPETSKI, Mr. GIBBONS, Mr. HAYES of Illinois, and Mr. MCMILLEN of Maryland.

H. Res. 272: Mr. GUNDERSON, Mr. ENGEL, and Mr. FISH.

H. Res. 314: Mr. BROWN.

H. Res. 372: Ms. SLAUGHTER, Mr. STALLINGS, Mr. GREEN of New York, and Mr. FISH.

H. Res. 417: Mr. KLECZKA.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.J. Res. 290

By Mr. KYL of Arizona:

—Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Except as provided in this article, outlays of the United States Government for any fiscal year may not exceed its receipts for that fiscal year.

"SECTION 2. Except as provided in this article, the outlays of the United States Government for a fiscal year may not exceed 19 percent of the Nation's gross national product for that fiscal year.

"SECTION 3. The Congress may, by law, provide for suspension of the effect of sections 1 or 2 of this article for any fiscal year for which three-fifths of the whole number of each House shall provide, by a rollcall vote, for a specific excess of outlays over receipts or over 19 percent of the Nation's gross national product.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

"SECTION 5. The President shall have power, when any Bill, including any vote, resolution, or order, which contains any item of spending authority, is presented to him pursuant to section 7 Article I of this Constitution, to separately approve, reduce, or disapprove any spending provision, or part of any spending provision, contained therein.

"When the President exercises this power, he shall signify in writing such portions of the Bill he has approved and which portions he had reduced. These portions, to the extent not reduced, shall then become a law. The President shall return with his objections any disapproved or reduced positions of a Bill to the House in which the Bill originated. The Congress shall separately reconsider each such returned portion of the Bill in the manner prescribed for disapproved Bills in section 7 of Article I of this Constitution. Any portion of a Bill which shall not have been returned or approved by the President within 10 days (Sundays excepted) after it shall have been presented to him shall become a law, unless the Congress by their adjournment prevent its return, in which case it shall not become a law.

"SECTION 6. Items of spending authority are those portions of a Bill that appropriate money from the Treasury or that otherwise authorize or limit the withdrawal or obligation of money from the Treasury. Such items shall include, without being limited to, items of appropriations, spending authorizations, authority to borrow money on the credit of the United States or otherwise, dedications of revenues, entitlements, uses of assets, insurance, guarantees of borrowing, and any authority to incur obligations.

"SECTION 7. Sections 1, 2, 3, and 4 of this article shall apply to the third fiscal year beginning after its ratification and to subsequent fiscal years, but not to fiscal years beginning before October 1, 1996. Sections 5 and 6 of this article shall take effect upon ratification of this article.

EXTENSIONS OF REMARKS

THE NEW REPUBLIC ON THE 6-DAY WAR

HON. EDWARD F. FEIGHAN
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. FEIGHAN. Mr. Speaker, today marks the 25th anniversary of the successful conclusion of the 6-day war in which Israel repelled an attack by the combined armies of Egypt, Syria, Jordan, Saudi Arabia, and Iraq. Today, a quarter century later, it is difficult recalling how miraculous Israel's swift victory seemed. In fact, just prior to Israel's preemptive strike that eliminated the Egyptian air force, it appeared that it was Israel that would be eliminated.

As Ahmad Shuqairi, then head of the PLO put it, the Israeli survivors of the Arab attack would be "repatriated to their countries of origin * * * but I estimate none of them will survive." The rhetoric emanating from more traditional Arab leaders was no more soothing. The call throughout the Arab world was for eradicating Israel. The survivors of the Holocaust, and their progeny, were under a death sentence.

It didn't turn out that way. Instead, the Israeli defense forces struck first and, when the fighting ended, Israel had reunified the divided city of Jerusalem and won control of the West Bank, the Sinai Peninsula, and the Golan Heights.

It is worth noting that, contrary to a common view, the Middle East conflict did not begin with Israel's 1967 victory. The Arab States, united in determination to destroy Israel, were not waging war for the Palestinians or for the West Bank. The West Bank was then under Jordanian control. If the Arab world had any interest in establishing a state for the Palestinians, a state with Jerusalem as its capital, it could have done so at any point between 1948 and 1967.

But there was no interest in establishing any sort of West Bank state for the Palestinians until the West Bank fell under Israeli control. It was only then, after 1967, that the West Bank became the core of the Arab-Israeli dispute. Before then, no one much cared about who controlled it. Just as no one much cared about the Palestinians.

Today much has changed. Fortunately, on all sides, there seems to be a growing resolve about ending the Arab-Israeli conflict and solving the problem of the displaced Palestinians. But let us not forget how we came to the current situation. That situation is not ideal but it is infinitely superior to the alternative we would be living with if Israel had not prevailed in 1967: a world without a Jewish state, a world without Israel, a world in which the haven built for the survivors of the Holocaust was wiped out.

Mr. Speaker, I want to commend to your attention an editorial in the June 22, 1992, New Republic which sums up the legacy of the 1967 war. I have become accustomed to seeing the best writing on politics, international affairs, and recently, cultural events appearing in New Republic. Under its new editor, Andrew Sullivan, New Republic has secured its place as the leading opinion journal in this country. This editorial is typical of the high quality we have all come to expect from this magazine.

[From the New Republic, June 22, 1992]

THE GOOD WAR

The present cartography of the Middle East owes its origins to the League of Nations and to the warrant the League gave the victorious powers of World War I to contrive new states out of the huge, inchoate (but collapsed) Ottoman Empire. The first partition of Palestine in 1922 would be followed by another partition in 1947, but the quarter of 1 percent of Ottoman lands vouchsafed to the Jews would yet be too much for the Arabs. On the morrow of Israel's founding in 1948 a war was waged against the new state, and lost; and the land that the U.N. had envisaged for yet one more Arab state, this to be in western Palestine, was occupied by Jordan and Egypt. Then, in 1967, the Arab states started another war, the Six-Day War, more traumatic in outcome than even the first. After dazzling defensive maneuvers Israel occupied the land from which Egypt, Syria, and Jordan had launched their coordinated acts of aggression. And, true to form, the big powers soon began counseling concessions Israel might make to concililate its irreconcilable enemies, concessions that would restore the perils under which it had lived for twenty years.

George Bush himself has a hankering for this status quo ante, and is infuriated that Israel won't follow his nostalgic lead. He is not alone in this impatience. Memory plays tricks on history, and doubtless there are millions who believe the Israeli occupation of the disputed territories is a cause of the Jewish-Arab conflict rather than one of its consequences.

It is now a quarter century since Gamal Abdel Nasser, incited by the Soviet Union, whipped up a hysteria that enticed the other Arabs into what they had been persuaded would be the final reckoning with the Jews. As Fouad Ajami has reminded us, the then head of the Palestine Liberation Organization, Ahmad Shuqairi, assured the world that Israelis "born elsewhere would be repatriated to their countries of origin." The rest could remain in Palestine but, as Shuqairi put it, "I estimate none of them will survive." Now such rhetoric seems the stuff of phantasm, but Israelis cannot overlook—and we shouldn't either—the grisly routines of carnage and plunder that still obtain in the Arab world, most assuredly in its two strongest states, Syria and Iraq, and also in the state-presumptive of Palestine. Of the latter there is ample evidence, first in the brutal but widely ignored behavior of the PLO when it lorded over southern Lebanon from 1976 to 1982, and, more recently, in the nearly 600 assassinations carried out with pickax and butcher knife against other Palestinians by "the children of stones," so-called, gangsters with an armed doctrine.

Twenty-five years ago, this magazine editorialized: "To appreciate the shattering significance of Israel's victory, one must try to imagine the world as it would have been had Israel lost on the battlefield or remained passive only to expire later from slow strangulation." Radical Arab states would have won the upper hand against the petroleum dynasts, and the Soviets would have held the Arab card in world politics. We did not grasp this in 1967, so we watched the agony of the Jews from afar. The fact is that Israel fought with its back to the sea, and it fought against an attempted genocide. It also learned lessons about whom it should not trust. When Nasser demanded that the U.N. secretary-general withdraw international forces from the Egyptian-Israeli border, a cowed U Thant capitulated, and within days there were 80,000 Egyptian troops in Gaza. Then Nasser closed the Straits of Tiran to Israeli shipping, cutting the beleaguered country off from trade with East Africa and Asia. (The Suez Canal had already been closed to vessels to and from Israel.) The Dutch were willing to run the blockade in the Gulf of Aqaba but only with others, and the significant other, the United States, wouldn't think of it, not even Israel's putative great friend, Lyndon Johnson. The American guarantee that had persuaded Israel to evacuate the Sinai in 1957 had turned out to be no guarantee at all. So while the United States played for time, the Israelis were playing for their lives. They stood alone and fought alone, and they won't forget that they had only the handwringing of Washington on their side. What would have happened had they not succeeded in taking out virtually the entire Egyptian air force in the first few hours of June 5 is too horrendous to contemplate.

Historians these days speculate in what they call "counter-factuals." Suppose, then, that the Israelis had won the war but not held the West Bank. Of one thing we can be sure: there would not now be in the territories anything remotely like a Palestinian state. Palestinian nationalism would have been a secret, soundly kept in check by King Hussein. But if such an entity did exist, it would be neither democratic nor pluralistic nor even tolerant. Actually, no such order now exists anywhere in the Arab world; and the world of the Palestinians, despite its elegant and eloquent spokesmen and spokeswomen, is very much a part of that world. How else can we read the Palestinian enthusiasm for Saddam's Iraq? Such enthusiasm is not easily romanticized even by those who have romanticized the Soviets and the Chinese elites, the Cubans and the North Vietnamese.

On the right, however, romanticization is hardly the motive. In ratifying the extension of Syrian dominion over Lebanon, in certifying Iraq's established borders as inviolate, Messrs. Bush and Baker have assented to exquisite suffering as a quotidian fact of Arab political life. Their sympathy for the Palestinians is about as convincing as their sympathy for the Jews. We believe that even-handedness with reference to Israel and the Arab states would be an inappropriate U.S. policy in the Middle East: our country

should not be neutral between a proven friend and habitual foes, between a democratic polity and seasoned tyrannies. But this administration is not even neutral. Since the Bush ascendancy America has clearly tilted against Israel. And it is not just atmospherics. We know, for example, what Washington wants from Israel in the early stages of negotiations. It wants Israel to give up settlements. But what does Washington want from the Arab states? Nothing discernible. In fact, it remains mute when Syria and its Lebanese satrap ignore the multilateral regional talks that Baker has touted as the innovative keystone of the peace process.

And what does Washington ultimately want from Israel? It has let slip from the United States still supports the right of refugee Arabs of 1948 (and their descendents) to return to their old homes in Haifa and Safed. Needless to say, this right of return does not, in the official American view, extend to uprooted Jews who not so long ago lived in Hebron and east Jerusalem. (Of course, those Jews who demand their right of return to Silwan don't acknowledge an Arab right to return to Baka.) The American reiteration of a U.N. resolution passed more than forty years ago encourages the Arab states, who need scarce encouragement, to magnify their demands. It also suggests the administration in fact accepts what the Israeli right has long charged: that what is at issue at the conference is not simply the occupied territories but the character of Jerusalem and of pre-1967 Israel itself.

Now, it would be good if Israel were able to ease its rule over the one-and-a-half million Arabs in the territories. Occupations debilitate occupied and occupiers alike. Maybe there is a formula, consistent with Israeli security, whereby the burden of the Jewish military presence could be lifted from the Palestinian Arabs and a measure of autonomy given them, of a kind no one contemplates for the Kurds or Shiites of Iraq or the Maronites of Lebanon. In the meantime it is instructive to note that both the administration (with its heavy-handed obiter dicta) and the Palestinians (by an intensification of terror) are doing everything they can to ensure a continuation of hardline Likud government. Could it be that they know a genuinely conciliatory Labor government would preclude Washington from imposing its own preferred solutions on Jerusalem? But even these would not enhance the career of democracy and constitutionalism among the Arabs. Arab politics is what it is: the Palestinians will not suddenly produce the great exception. In any case, it is neither democracy nor constitutionalism that motivates Bush. He just wants to cut Israel down to size.

But doing so carries with it responsibilities that even an administration unfriendly to Israel will not be able to avoid. An Israel deprived of what it requires to defend itself will expect the United States to compensate for its loss of strategic advantages. This means that the United States would need to be committed to guaranteeing Israel's security against all foes. We might try to enmesh the U.N. in these assurances, but such an arrangement would add no moral authority to the enterprise, either for Israel or for the Arabs. The crucial ingredient, American will, would be suspect from the start, and the Arab states would test it relentlessly. It is not, moreover, just American politics that would cripple us, as it did in 1967, but the now permanently degraded state of our economy, a factor that does not explain American inaction twenty-five years ago. There is also the fact that no American guarantees, however well intended and however reliable, can possibly protect the Israelis from terrorism, that psychologically unnerving and politically destabilizing weapon of the displaced and the resentful.

What persuades the United States to become an instrument of this resentment against Israel? What concrete concerns do Americans have in the alleys of Nablus and Jenin? Not many. As it happens, Israel has a greater interest in finding a more peaceful way of living with its neighbors than we do. We can encourage the Israelis to be more daring in their concessions, more generous. But if we bully them into ceding those small margins of safety that may mean the difference between life and death, we are setting them up for a fall, and setting ourselves up for one too. In 1967, seeing that the United States would not honor our grave commitments to the Jewish state, Israel had the courage and wherewithal to strike for its own survival. In doing so it also served American interests well. The next time it won't be so easy. We should not push our luck.

IN HONOR OF ELIZABETH AND SHERMAN SMITH: CELEBRATING THEIR GOLDEN ANNIVERSARY ON JULY 13, 1992

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. PANETTA. Mr. Speaker, I rise today in honor of Elizabeth and Sherman Smith who will be celebrating their 50th wedding anniversary on June 13, 1992.

Sherman Smith was serving in the U.S. Army stationed at Fort Sill, OK when he and Liz were married on June 13, 1942. In July, only a month after their wedding, Sherman attended Officers Candidate School and was commissioned as a 2d lieutenant in September 1942. Sherman's first duty assignment was at Fort Robinson, AR and then in February 1943, Sherman and Liz were stationed at Fort Huachuca, AZ with the 92d Infantry Division. In October 1943, Sherman attended flight school in Tuskegee, AL and then returned to Fort Sill for advanced training. In 1944, Sherman received a U.S. Army pilot designation and was assigned to New Guinea. At this time, Liz was pregnant with their first child, and moved to Los Angeles to be with her mother where in April, their son, Sherman, Jr. was born. In June, when Liz bought their first home, Sherman returned from New Guinea to see his son for the first time. In 1945, Sherman was sent to Fort Jackson, SC and in 1950, while stationed in Japan, was sent to fight in the Korean war. Liz and Sherman, Jr. remained in Japan during the war and then in 1951, the three were united again and returned stateside where Sherman began rotary wing pilot training. For the last 10 years of Sherman's military career, he and his family were based in all parts of the country until, while based at Fort Ord, Sherman retired from the military service. He began work as a civil servant at Fort Ord and retired a second time in 1989.

Throughout the years, both Sherman and Liz have volunteered their time and services to their community. Sherman was elected to serve on the Monterey Peninsula College board of trustees and has served as a member for the past 27 years. Liz served on the grand jury and has been actively involved with the NAACP and the Monterey Bay Links. Both have worked hard to help improve the living conditions of the community. They have fought for public education, for better working conditions, and for civil rights. They have served both family and community and we, the 16th Congressional District of California, are deeply grateful for their contributions.

Mr. Speaker, I ask my colleagues to join me now in congratulating Sherman and Liz on their golden anniversary. I have known Sherman and Liz for many years. My wife, Sylvia, and I have worked with them on many local issues, and we are thankful for their active participation in the community.

There are very few people who are able to experience the kind of love and commitment that Liz and Sherman have shared, and their dedication to friends, family, and the community is an inspiration to those they come in contact with. It is my hope that they will continue to share a lifetime of happiness with each other for many years to come.

VISITING NURSE ASSOCIATION RAISES FUNDS FOR HOMELESS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to call my colleagues' attention to the outstanding service to the homeless and the ill provided by the Visiting Nurse Association of Dade County. As one of the United Way agencies in Dade County, The Visiting Nurse Association has provided care to the sick, elderly, and high risk infants for over 47 years. They are often the only recourse for indigent patients who, released from a hospital, still need comprehensive health care, but have no family, funds, or insurance to provide care in the home, and often have no home. The visiting nurses are often the only resource available to AIDS patients, who are often made indigent by their inability to work and the high cost of treatment for this insidious disease.

On June 13 of this year, under the leadership of Dorothy Brown-Forrest, the Visiting Nurse Association is hosting a fundraiser to gather funds for their service to the needy. The proceeds will be used to increase the number of needy patients they can serve, to obtain medical supplies, medicines, and food.

The banquet will honor two of the founders of the Dade County Visiting Nurse Association.

Dr. Jean Jones Perdue served as an associate professor at the University of Miami Medical School. She developed a home care program while serving as medical director of the Continuing Patient Care Division at Jackson Memorial Hospital. She went on to serve the community as Medical Director of the Dade County Department of Welfare, and the Nation

as a member of the White House Conference on Aging.

Dr. James J. Hudson began his public service in the U.S. Navy in 1944. After his Naval service he entered private medical practice with his father. He has served on the boards of numerous community agencies including the Papanicolaou Cancer Research Center, Fairhaven Nursing Center, Floridian Nursing Home, and the Suzanna Wesley Retirement Village. He served on the board of the Visiting Nurse Association longer than any other member in the history of the association.

Mr. Speaker, I commend the Visiting Nurse Association for their greatly needed service to the poor and infirm of Dade County. And I thank Dr. Hudson and Dr. Perdue for their valuable service to that organization, to the community, and to the United States.

IN RECOGNITION OF THE 100TH ANNIVERSARY OF LOWELL HIGH SCHOOL'S FORENSIC SOCIETY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. PELOSI. Mr. Speaker, I rise today to commemorate the 100th anniversary of San Francisco's Lowell High School Forensic Society. The forensic program at Lowell, designated as the oldest high school speech and debate society in the United States, has brought real credit to the school, while providing many students with the poise and confidence necessary for future professional careers.

The Lowell Forensic Society was founded in 1892 by a group of students, who held meetings out of their homes with the intention of honing their public speaking skills. In 1897, the group obtained faculty sponsors and was granted permission to hold their meetings at the high school, where the society has met ever since. Originally, the society limited its activity to debates between members, but soon expanded to meet teams from Berkeley, Oakland, and Santa Clara, then competed throughout the State, as well as the national level.

Throughout the years, Lowell's forensic program has earned great respect and filled the school's trophy cases. In 1930, the Lowell High School team debated collegiate teams from Stanford and UC Berkeley and won each competition handily. Lowell quickly consolidated its position as the preeminent power in high school debating.

Forensics has been consistently one of the most popular programs at the Lowell High School. This is due in no small part to two men who were responsible for 70 years of stewardship of Lowell debating—George Lorbeer, who served as forensic coach from 1921–54. and Jack Anderson, a former Lowell student. Mr. Lorbeer was a guiding force in cultivating young, bright debating champions, many of whom went on to distinguish themselves in the fields of law, politics, and literature. In 1990, Mr. Lorbeer's contributions prompted his induction into the California High School Speech Association Hall of Fame. Mr. Anderson, one of Lowell's champion debaters in the 1940's has worked for the past 38 years to encourage a host of young students to develop their intellectual skills and speaking prowess through debate.

Noted Lowell Forensic Society alumni include former California Gov. Edmund G. "Pat" Brown, and entertainer Carol Channing. Many lawyers, judges, and members of the State senate and assembly also have been products of this program.

Mr. Speaker, I salute the Lowell High School Forensic Society and its past and present members, and I sincerely hope that Mr. Lorbeer's debating philosophy—"The only losers are those who do not participate"—may serve as an anthem for many future generations at Lowell High School.

CLEAN AIR

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. OWENS of Utah. Mr. Speaker, the environmental President has done it again, or rather, not done it again. This time he has again taken on the clear intent of Congress to give the American people control of their air quality. This is only the 35th time in the last year and a half that the President and his surrogate DAN QUAYLE have violated not just the spirit but the law of the Clean Air Act Amendments of 1990 in their overtly antienvironmental administrative rulemaking. He has even, and not for the first time, muzzled his valiant but beleaguered director of the EPA, Bill Reilly, who surely must miss those halcyon days at the World Wildlife Fund at times like these.

The President has insisted that the EPA issue regulations that prevent public involvement when industry seeks to increase the amount of air pollution it is permitted to release into the air. If we aren't even notified of an increase in air pollution in our neighborhoods through implementation of the Clean Air Act amendments, how can we hope to improve air quality and drive industry toward tighter pollution controls? Bill Reilly said the Clean Air Act amendments were plain on their face in providing for public notification, involvement, and review, and they are. But Congress giveth, and the President taketh away. It's extraconstitutional, illegal, and improper. It raises serious questions about the President's much ballyhooed commitment to clean air.

Let's clear the air on November 3. Let's make George Bush an exenvironmental President. It almost makes you miss Ronald Reagan. He had no environmental agenda, conscience, or commitment, either, but at least he had the courage to admit it.

A SALUTE TO DALE MELSNESS, A TRUE AMERICAN HERO

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. STOKES. Mr. Speaker, on Tuesday, June 9, the U.S. Congress in conjunction with National Partners will honor 14 Pathfinders award winners for their unique contributions to the fight against AIDS. I am honored to have had one of my constituents nominated for this important award. National Partners recognized Dale Melsness for his leadership and achievements in the fight against HIV/AIDS.

I rise today to salute Dale Melsness, an outstanding citizen in my district, who has helped many people in the fight against AIDS. Having spent numerous hours counseling AIDS patients throughout the Cleveland area, Mr. Melsness is the epitome of a first-class citizen.

As one of the Ohio organizers for the Names Project Memorial quilt, Mr. Melsness realizes the importance of AIDS education. He has dedicated his energy to informing local students, families, teachers and workers about the dangers of the virus. Mr. Melsness uses the Names Project Memorial quilt as a tool to help family members of the AIDS victims. As the family members sew new patterns onto the quilt, a catharsis period is created. It is at this point that Mr. Melsness acts as a listener, counselor, and friend.

Mr. Melsness' ability to make a difference in the lives of others and his desire to create avenues for those in need has made him a "pathfinder" as defined by National Partners.

Mr. Speaker, fighting AIDS is a battle Mr. Melsness has chosen to combat despite the lack of tangible rewards. His reward is knowing he has helped someone who would not have been helped otherwise. His reward is knowing he has been the emotional support for someone in need. His reward is knowing he had made the difference in someone's life.

Mr. Melsness also helped to return happiness to the lives of the AIDS patients by lending his talents to the theatrical world in the name of AIDS. As the technical director for a community theater, Mr. Melsness often uses the theater as a vehicle in the fight against AIDS.

Mr. Melsness is a unique Cleveland native because unlike the majority of the other 130 people recognized by National Partners, he is not a member of the health profession. Mr. Melsness has chosen to help HIV/AIDS patients out of a desire to help his fellow man.

Mr. Speaker, it is the kindness exuded by people such as Mr. Melsness which makes me proud to be a representative of the 21st district. Also, I strongly believe that people with Mr. Melsness' high caliber are a much needed rare breed. At this time, I would like to join the organization, National Partners, in honoring Mr. Melsness.

HISPANIC CONTRIBUTION TO U.S. MILITARY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, this country has had numerous heroes who have served in the military and risked their very existence. As inheritors of the freedom they arduously fought for, many are becoming increasingly aware of the contributions Hispanics have made in the Armed Forces of the United States.

For example, Pfc. Jose Valdez found himself fighting the enemy and the odds in a World War II battle as he valiantly and unselfishly placed his life on the line for the lives of fellow soldiers. He fought ruthlessly to protect the other members of the patrol. During the battle, a bullet pierced his stomach and emerged from his back. But his injury would not discourage his fight for the lives of his comrades. Private Valdez' bold and courageous fight cost him his life, yet he made it possible for the other soldiers to escape enemy gunfire.

But we must be careful to understand that what truly makes Private Valdez stand out is not simply the fact that he is Hispanic but more importantly, that he gave his life so that all may enjoy freedom.

Since the American Revolution through the Vietnam war and up to the gulf war, Hispanics have had a major impact in the success of the U.S. Armed Forces. Many soldiers have come to fight for the same freedom they once lost in their own countries. The painful reminder of this loss will not allow them the same fate in their new American home.

Generation after generation, Hispanics from throughout the world are joining the Armed Forces in larger numbers. From privates to generals and every rank in between, men and women serve with pride, dignity, and self-respect. They fight side by side their non-Hispanic counterparts—the tears in their eyes caused by the same sorrows, the sweat of their brow by the same battles, and the precious blood they've sacrificed for the same freedoms.

Vietnam era veteran Victor Fernandez has researched and collected information on the lives of the many Hispanics who have fought in American wars. He has used these materials to put together an exhibit which honors these men and women and recognizes them for their role in American history. Among Mr. Fernandez' findings, he lists the 38 Hispanic recipients of the Congressional Medal of Honor.

His work is on display in Washington, DC, and during the "Somos Uno" conference in Albany, NY. Mr. Fernandez has plans to take his exhibit around the Nation. It is his hope, as it is all of ours, that this part of Hispanic-American history reminds all of the barriers crossed and the contributions Hispanics have made in the military as well as in all aspects of American society.

In their honor, it is fitting that we remember these men and women as Hispanics who continue to make us proud of our heritage and our love of freedom and democracy.

TRIBUTE TO JOHN INSKEEP

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. KOPETSKI. Mr. Speaker, I rise today to pay tribute to one of Oregon's greatest sons who passed away last Friday in Portland.

John Inskeep, a pioneer conservationist, is a well known figure in my home State of Oregon. He was an early advocate of the preservation of forests, farm lands, rivers, and clean air.

Mr. Speaker, I am including in the RECORD the obituary of John Inskeep from the June 6, 1992 edition of the Oregonian, which highlights the achievements of this decent man.

Mr. Speaker, on behalf of all Oregonians, I extend my condolences to his family and friends. John Inskeep is greatly missed.

[From the Oregonian, June 6, 1992]

PIONEER CONSERVATIONIST JOHN INSKEEP DIES

(By Pete Bysom)

John J. Inskeep, a pioneer Oregon conservationist and former Clackamas County agricultural extension agent and Oregon state senator, died Friday in a Portland care center.

No service will be held. Mr. Inskeep was 95.

After spending five years with the Kansas Extension Service, Mr. Inskeep moved to Oregon City in 1926 to become Clackamas County's extension agent. A recognized authority on agriculture, he was instrumental in helping revitalize the county's flagging farm economy.

During his 35-year career, Mr. Inskeep introduced holly growing to Clackamas County and worked to improve the water quality of the Clackamas and Molalla rivers. He also supported the management of fish and game resources in the county.

An early advocate of the preservation of forests, farm lands, rivers and clean air, he encouraged Christmas tree farming in Clackamas County and the Williamette Valley. By the early 1980s, Clackamas County had become the leading producer of Christmas trees in the United States.

Mr. Inskeep was instrumental in forming the Farm-Forestry Association of Clackamas County, later known as the Oregon Small Woodlands Association. He was a past chairman of the Keep Oregon Green Committee and had been the recipient of numerous awards of merit from the U.S. Department of Agriculture. He retired in 1961.

The next year he was elected to the state Senate from Clackamas County, a position he occupied for two terms. He served on numerous Senate committees and was chairman of the Fish and Game Commission in 1969.

Active in the Oregon City Rotary Club for many years, he had been president of the club and was a district director for Rotary. He also served as director of the Tri-City Chamber of Commerce.

Mr. Inskeep's many years of promoting environmental responsibility inspired the naming of the John Inskeep Environmental Learning Center at Clackamas Community College in his honor.

The center, which was begun in 1974 and completed during the early 1980s, was designed to teach both students and members of the public about recycling, botany, biology and environmental awareness.

The 3½-acre expanse comprises ponds, creeks, wooded paths, hills and meadows and a variety of wildlife, as well as an environmentally harmonious pavilion and a recycling depot.

Before its transformation into a nature repository, the area had been an industrial wasteland of roadways, parking lots and wastewater lagoons that were the remnants of an abandoned berry processing plant.

Mr. Inskeep was born Aug. 16, 1896, in Bryan, Texas. He graduated from Purdue University and served as a lieutenant in the U.S. Army during World War I. He married Beatrice Holt in 1922. She died in 1978. He earned a master's degree in economics from Oregon State College, now OSU, in 1941 and had taught at the university.

Survivors include his second wife, Anna of Wilsonville; his son, J. Jerry Jr. of Portland; his daughter, Bettie Givens of Temecula, Calif.; five grandchildren; and six great-grandchildren.

Burial will be at Riverview Abbey Mausoleum.

The family suggests that memorials be contributions to the John Inskeep Environmental Learning Center.

PREMONITIONS OF WHITE MAN IN INDIAN CULTURES IV

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a recollection of James Paytiamo, a member of the Acoma Pueblo, as published in a book entitled "Native American Testimony." The story recounts the premonitions of his elders about what happens as Indians adopt the ways of the white men—people with grey eyes. The editorial comment which precedes the recollection is provided also.

EASY LIFE OF THE GRAY-EYED

The old Acoma Pueblo in New Mexico's Valencia County stands atop a steep rocky mesa 357 feet high. Today most of the Acoma people inhabit communities closer to the highway and Albuquerque—sixty miles from Acoma. But in summertime many families return to their adobe houses high on the mesa. Then the narrow, dusty streets bustle almost as in the old days. James Paytiamo spent his childhood there, and his reminiscence of daily life at Acoma. "Flaming Arrow's People," was published in 1932. This excerpt differs from the other prophecy stories in that during Paytiamo's childhood, the existence of the white man was an established fact. What the old Acoma caciques, or headmen, seem to foretell here are the destructive influences white culture will have on the traditional Acoma way of life.

I can just remember the old men of my village. Old age was simply a delightful time, when the old men sat on the sunny doorsteps, playing in the sun with the children, until they fell asleep. At last they failed to wake up.

These old, old men used to prophesy about the coming of the white man. They would go about tapping with their canes on the adobe floor of the house, and call to us children:

"Listen! Listen! The gray-eyed people are coming nearer and nearer. They are building an iron road. They are coming nearer every day. There will be a time when you will mix

with these people. That is when the Gray Eyes are going to get you to drink black, hot water, which you will drink whenever you eat. Then your teeth will become soft. They will get you to smoke at a young age, so that your eyes will run tears on windy days, and your eyesight will be poor. Your joints will crack when you want to move slowly and softly.

"You will sleep on soft beds and will not like to rise early. When you begin to wear heavy clothes and sleep under heavy covers, then you will grow lazy. Then there will be no more singing heard in the valleys as you walk.

"When you begin to eat with iron sticks, your tones will grow louder. You will speak louder and overtalk your parents. You will grow disobedient. Then when you mix with these gray-eyed people, you will learn their ways, you will break up homes, and murder and steal."

Such things have come true, and I compare my generation with the old generation. We are not good as they were; neither are we healthy as they were.

How did these old men know what was coming? That is what I would like to know.

JAMES PAYTIAMO,
Acoma Pueblo.

UNITED STATES FLAG LINER SERVICE INTERNATIONAL COMPETITIVENESS ACT

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. MACHTLEY. Mr. Speaker, I am pleased that the administration is proceeding with a critical review of existing maritime policies under the auspices of a policy coordinating group chaired by the Secretary of Transportation.

Military, economic and political concerns demand that our nation have an active and effective commercial U.S.-flag fleet crewed by American civilian mariners.

As the policy coordinating group continues its work, I would urge them to consider the proposals established by Sea-Land Service, American President Lines, and other shipping interests with front-line experience in international shipping. Together, these two American flag shipping companies transported more than 80 percent of all the container loads needed by the U.S. military during Operation Desert Shield and Operation Desert Storm. They provided the oceangoing link to the battlesite that played an important role in our successful military effort.

Because of the instability in so many parts of the globe, as the Persian Gulf war demonstrated, it is especially important that we continue to build a strong domestic shipping industry, and that we not rely too heavily on foreign interests. American consumers and American importers and exporters cannot be placed at the mercy of foreign vessel operations. The fact that during the Persian Gulf war we had the support of the vast majority of the world's nations should not lull us into false security to expect that we will always have such broad international support of our objectives abroad.

A self-sufficient transport operation of both military and non-military cargo on American flag and American-manned ships is important to our national security and to our Nation's continued industrial strength. Policy proposals from proven front-line industry leaders such as Sea-Land and American President Lines should be fully considered as the Policy Coordinating Committee reviews national objectives for a strong U.S.-flag merchant marine.

A brief explanation of the proposed "United States-flag Liner Service International Competitiveness Act" put forward by Sea-Land and American President Lines follows:

U.S.-FLAG LINER SERVICE INTERNATIONAL COMPETITIVENESS ACT

Summary

Currently, United States laws regulate and tax operators of U.S.-flag liner vessels more heavily than foreign nations regulate or tax their liner carriers. The differences significantly and adversely affect the ability of the U.S.-flag liner fleet to compete with foreign-flag operators in international markets. The U.S.-flag market share in the industry has steadily declined and is now less than 20 percent of liner cargo in U.S. foreign commerce.

Without prompt, major, and comprehensive U.S. Government action to level the international playing field for U.S.-flag liner carriers, it seems unlikely that a U.S.-flag liner shipping industry will continue for long.

The draft United States-Flag Liner Service International Competitiveness Act would help rectify the competitive disadvantages facing U.S.-flag liner operators through amendments to:

Maritime regulatory statutes:

The tax code, and

Statutes governing Department of Defense procurement of waterborne and intermodal transportation services.

Regulatory Burdens

Worldwide maritime shipping is based on uniform standards regarding vessel design, equipment, maintenance and operation. These standards, addressed in international agreements, allow a ship flying the flag of one nation to be accepted at the ports of other nations as long as the ship meets international standards.

The United States, however, has developed additional and unnecessary standards that are pricing U.S.-flag ships out of the market.

Design and equipment standards that provide no actual safety benefit add five to eight percent by themselves—or $5 to $8 million—to the cost of building a ship for operation under the U.S.-flag.

Needlessly narrow specifications prevent U.S. shipbuilders from acquiring materials from many of the most competitive, state-of-the-art suppliers.

Allowing U.S.-flag ships to meet the same standards that the U.S. accepts for foreign-flag ships could help U.S. companies compete as equals.

Tax Burdens

Foreign countries give their ships beneficial tax treatment to enhance their competitive position. U.S. tax policy includes some features that place the U.S. maritime industry at a dramatic disadvantage.

Foreign ships have shorter depreciation schedules.

Foreign nations offer substantial tax deferment devices to their flag fleets.

These and other policies allow foreign-flag ships to compete as more than equals when calling at U.S. ports. U.S.-flag ships cannot compete effectively if their own country is going to tax them more heavily than foreign nations tax their merchant fleets.

National Security Implications

Operation Desert Storm demonstrated the efficiency and cost-effectiveness of military sealift operations performed by privately-owned and operated U.S.-flag ships. These commercial services—and the highly-trained and reliable U.S. citizen-mariners who crew these ships—will be lost to the Defense Department if U.S.-flag ships continue to be unfairly regulated and taxed.

Without a privately-financed U.S.-flag fleet the nation will be forced to spend limited post-Cold War resources on military-based sealift operations that will cost substantially more than private programs currently in place.

Thus, the draft bill takes the position that Defense Department programs are among the U.S. Government activities that must be conducted with recognition that the U.S.-flag liner fleet is a valuable national asset.

At a minimum, the so-called Wilson-Weeks Agreement should be codified and modernized to ensure the Defense Department relies upon United States-flag commercial carriers. Equally important, United States-flag carriers must be fairly compensated for the actual carriage of cargo and to ensure their availability in time of national crisis. Finally, the types of cargo subject to United States-flag shipping requirements must be more clearly and properly defined, and contracting procedures should be revised to meet and satisfy mutual needs and concerns.

HARD WORK PAYS OFF FOR LITTLE HAITI GROCERY STORE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize today, Mr. and Mrs. Jean Leonard, who were recently featured in the Miami Herald for opening Leonard's Market in Miami's Little Haiti, an area many retailers have bypassed. Utilizing their experience working at a New York drugstore chain, Mr. Leonard and his wife Raymonde, have expanded their retail grocery store into becoming a major independent store. The article, "Supermarket Blazes a trail in Little Haiti," by Gregg Fields, tells their story:

It's the kind of attractive, bright grocery that dots many a suburban American landscape humming refrigerator cases, a whirring cash register, clean tile floors.

But this isn't a chain outlet, and it's not in a suburb. It's Leonard's Market on well-worn Northeast Second Avenue, the main drag for Little Haiti.

"I am trying to set a new standard for Haitian businesses," says owner Jean Leonard, beaming with pride. "And I hope other Haitian businesses will follow."

Clearly, this is not a typical business operator. Leonard is independent, in an era when food retailing is dominated by huge chains. He chose to locate in Little Haiti a neighborhood that many other retailers have bypassed.

And, he did it with the help of bank loans, an accomplishment that most small businesses never achieve.

Success is far from assured—the store is still in the grand opening stage. But Leonard

possesses traits often associated with those small business owners who make it. There is determination, having managed to squirrel away money that he pumped into his store. There is luck in that he found an influential friend who steered him through the maze of lender requirements. And there is, of course, hard work Leonard and his wife, Raymonde, are together working a total of 30 hours a day.

DREAMS OF EXPANSION

They don't mind. This first store, he promises, is just the start.

"I want, eventually to have a chain of stores in Miami," he says, "Why not?"

Leonard came to the United States 22 years ago from his native Haiti. He went to New York City. He and his wife found jobs at a regional drugstore chain.

"That made all the difference," Raymonde says. Their jobs gave them experience in everything from customer service to merchandising.

Four years ago, the climate and the expense of Long Island led them to Miami.

"I wanted to be on my own," Leonard says. "And to be near my people." referring to the burgeoning Little Haiti community in Northeast Miami.

Leonard started with a 1,000-square-foot store. Opened in late 1988 it was rather threadbare. But it was just down the street from the Caribbean Marketplace.

The marketplace with its award-winning architecture was envisioned as the cornerstone of Little Haiti redevelopment when it opened in 1990. Although it didn't really work out that way—the center has had its share of struggles—Leonard's market prospered by offering the basic goods that the working-class neighborhood needs.

But he needed more space. His monthly revenues rose to $30,000, and Leonard believed he could raise that by another third if he had more room. Having saved $30,000 he sat his sights on a building next door that was more than twice as large.

MONEY TO EXPAND

He decided to apply to a bank for a $75,000 loan.

And that's where the problems started. The first institution he went to never replied: The second, Barnett Bank turned him down.

He wondered if it wasn't discrimination—because he was black, because he wasn't in a more prestigious neighborhood. People who don't come into the area, he says mistakenly believe that it has a high crime rate. Or that a retailer can't make a living there.

"This is a good area," he says. "If you have something that's modern and clean people will find you."

He plunged forward plowing his savings into renovations without a loan. And he called John Little an attorney at Legal Services, and told him of his loan problems.

Little, an activist on minority lending issues, represents the Haitian Task Force. The organization owns the space Leonard wanted. If Leonard couldn't get his loan, he couldn't move. The Haitian Task Force's building would go into foreclosure. An effort at redevelopment would fail.

"I was helping him, but I was also helping my client," Little says.

Little couldn't believe Barnett had turned Leonard down.

"They said his projections for sales growth in the new place were too rosy," Little says. "But what they failed to see was, he was grossing enough to pay his mortgage even if sales didn't rise at all."

FLAWED APPLICATION

Perhaps. But Leonard's first application was also badly organized, says Barbara Rose, the Barnett officer whose efforts eventually got Leonard a loan.

"It wasn't just badly done," she says. "There were contradictions in it."

Rose is a senior vice president in charge of compliance with the Community Reinvestment Act. The Federal law requires that banks tend to the borrowing needs of their entire communities, not just the affluent sections.

With Little's help, Leonard drew up a second application to Barnett. Little has a personal computer, and with the use of spreadsheet software he developed a detailed financial plan.

Rose also got involved. She went to Leonard's accountant for detailed financial information. She also interviewed Leonard because she found his concept confusing.

* * * * *

LITTLE COMPETITION

She came away convinced that Leonard knew his clientele. And the area, she says, seemed ripe for such a facility: There aren't any Publix or Winn-Dixie stores in Little Haiti.

Leonard, by this point, was becoming evermore anxious about getting a loan. He had sunk his entire savings into the new store; if he didn't finish, the money was lost.

He found the interviews with bankers exhaustive, almost grueling.

"Sometimes you feel like saying 'Never mind,'" he acknowledges.

Meanwhile, Little, the attorney, mentioned his grocer client to Stan Kryder, an executive with First Union National Bank. "I told him, 'Barnett's interested in this guy in Little Haiti,'" Little says with a laugh.

First Union, the largest bank in Dade County, doesn't have a branch in Little Haiti. So Kryder dispatched a loan officer to Leonard's store to take an application.

Says Kryder, "If it weren't for John Little, we probably would have never heard of Jean Leonard."

One day, in February, after five months of trying, the call came in. Barnett and First Union would each provide $30,000. It wasn't the $75,000 he'd hoped for, but it was enough. "I jumped," he says.

Although he and his wife plan a night out to celebrate, they haven't had time yet. "We work 7:30 a.m. to 10 p.m.," he says. "That's the key to success: Put in the hours."

He adds: "That's what they told me when I came to this country. You can have anything you want, if you work for it."

I am pleased to pay tribute to these entrepreneurs by reprinting this article from the Miami Herald. Their story is typical of the many entrepreneurs who made sacrifices to make their dreams a reality, and helped make America what it is today. As Mr. Leonard said, "That's what they told me when I came to this country: You can have anything you want, if you work for it."

PHARMACEUTICAL PRICING POLICIES ARE A SERIOUS BARRIER TO IMMUNIZING U.S. BABIES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. STARK. Mr. Speaker, why do parts of the United States have lower immunization rates than many parts of the Third World?

The answer lies in the pharmaceutical pricing policies of many U.S. drug companies. How can the prices of needed medications be so much higher here in America than the prices in many Third World countries?

The Pharmaceutical Manufacturers Association is quick to proclaim the cost effectiveness of its products and how they save the U.S. consumer money through preventive care. But how can the neediest of Americans—the 37 million without insurance, the 30 million on food stamps, the 10 million unemployed-benefit from cost effectiveness if they can't afford the medicines in the first place?

The following American Medical News letter to the editor, "Why is Vaccine Costly," of June 8, 1992, tells it like it is:

WHY IS VACCINE COSTLY?

The March 9 AMN had an article on the high cost of hepatitis B immunization. A 1 ml. dose cost $36 to $50 in the United States. The price for Engerix-B vaccine delivered to the physician in Singapore is $12U.S.; in Suva, Fiji, $15.72 U.S.; in Nairobi, Kenya, $12 U.S.; in Karachi, Pakistan, $9.57 U.S.; and in Wellington, New Zealand, $10.62 U.S.

This vaccine costs as much as 500% more in the United States than elsewhere. Why? Whether this difference in market price is secondary to costs of transportation, recovery of research and development, application for FDA approval, liability premiums or corporate profit, a major vaccination program is hampered by costs. Concerned health care providers and the paying public should be informed about why their hepatitis B vaccine is so much more expensive.

JAMES W. BAYUK, MD,
Regional Medical Officer.
AMERICAN EMBASSY, JAKARTA, INDONESIA.

A TRIBUTE TO ANTHONY WESTERMANN

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. POSHARD. Mr. Speaker, I rise to pay tribute to my constituent, Mr. Anthony Westermann of Carlyle, IL, who recently retired as chairman of the board and director of the Mercantile Bank of Carlyle. Nearly 60 years ago, he began his banking career at the bank, then known as the Farmers and Merchants Bank. Since that time, he rose through the ranks, from the position of clerk to chairman of the board, and under his direction the bank prospered.

Mr. Westermann was an astute businessman, but he combined his expertise with compassion and kindness. Those who sought his financial assistance were met with a sympathetic ear and a large measure of generosity, qualities which earned him the affection and respect of all who know him. I met Mr. Westermann during one of my visits to Carlyle, and remember well his warm and welcoming approach. However, I believe the essence of his character and the sentiments of the people are best expressed in the Carlyle Union Banner editorial which I now insert into the RECORD. I join all the citizens of Carlyle in extending their deep gratitude for his outstanding service to the community and their best wishes to him in the years ahead.

WESTERMANN RETIREMENT OUR LOSS

(By Warren Dempsey)

Anthony J. Westermann made it official last Friday. He retired as chairman of the board and as a director of the Mercantile Bank of Carlyle.

Mr. Westermann, and Mr. Westermann alone knows, how many struggling businesses . . . how many struggling farmers . . . how many struggling people he helped along the way.

Often times, when it was just "bad banking business" to loan money, Mr. Westermann came to the rescue and signed personal guarantees or notes to get someone or some business back on their feet.

Sometimes he "lost", but more often he "won" and Carlyle and his bank are the better for it. The present ownership of this newspaper evolved from the old struggling Carlyle Democrat. We had less than 500 subscribers and a press that would run 500 2-page papers an hour back in 1949.

This week's paper would have consumed 143 hours of feeding one sheet at a time on that old Cincinnati press, in contrast to the newer King web press that takes about an hour.

We thank Mr. Westermann for his involvement with us and with countless others who succeeded because of his financial generosity.

That generosity paid off for him, too. When we came in 1949, Mr. Westermann was cashier of the Farmers and Merchants Bank, and the financial institution had assets of $2.038 million. He assumed the presidency of the bank in 1954 and its assets have grown past the $50 million mark.

We, and countless others he helped, simply say thank you . . . we appreciate the help you gave us . . . and never will forget your many kindnesses.

TRIBUTE TO SHERIFF THOMAS HAMMAN

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. McEWEN. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a courageous young man from Ohio. Last August Sheriff Thomas Hamman risked his own life to save that of little 7-year-old Zachary Moss, who was being held hostage at gunpoint.

On August 21, 1991, Randy Moss of Waverly, OH, kidnaped his wife Andrea and his son Zachary from their Pike County home. Andrea Moss was able to escape and immediately called the police. Deputies chased Randy Moss and young Zachary down a dead end alley in Pleasant Valley, where the youngster was held at gunpoint for 5 hours while Hamman and other duputies tried to negotiate with the father.

After hours of talks, Randy Moss finally agreed to surrender. However, he then shot his son in the chest and turned the gun on himself. Sheriff Hamman, acting quickly and decisively, seized the 7-year-old and protected the child with his own body while Randy Moss killed himself.

For his bravery, Sheriff Hamman was awarded the State's highest honor for courageous performance in the line of duty, the Ohio Distinguished Law Enforcement Valor Award. Upon receiving the award Hamman stated, "I'm thrilled to death the people in my profession would recognize me. The incident itself was a tragedy. We had a job to do, and I think we did it."

Mr. Speaker, that is an act of valor that should be remembered by all. Sheriff Hamman displayed tremendous courage and bravery in the face of great danger, and I would like to congratulate him for his award. Please find enclosed a copy of the articles which appeared in the Chillicothe Gazette and the Columbus Dispatch.

[From the Chillicothe Gazette, May 15, 1992]

SHERIFF RECEIVES HONOR FOR VALOR

(By Lou Moliterno)

Sheriff Thomas Hamman has been given the state's highest honor for valor in the line of duty—the Ohio Distinguished Law Enforcement Valor Award.

Hamman was given the award for his actions during a hostage crisis Aug. 20, 1991. In the incident, Randy Moss, 32, of Waverly, held his son, Zachary Moss, 7, at gunpoint for five hours while Hamman and deputies stood by negotiating for the child's release.

Earlier that day, Moss had kidnapped his wife, Andrea Moss, and the boy from their Pike County home. The woman was able to escape and called deputies, who chased Moss to a dead-end street in Pleasant Valley.

The incident ended when Randy Moss agreed to surrender, then shot his son before turning the gun on himself and taking his own life. Hammer grabbed the wounded 7-year-old, shielding him with his own body as Randy Moss shot himself.

Zachary Moss was treated for a gunshot wound to the chest at Children's Hospital in Columbus. He has since recovered from his injuries.

"I'm thrilled to death that people in my profession would recognize me," Hamman said this morning. "The incident itself was a tragedy. We had a job to do, and I think we did it."

Hamman was given the award at a banquet held Thursday night in Dublin.

[From the Columbus Dispatch, May 29, 1992]

IN LINE OF DUTY—ROSS COUNTY SHERIFF RICHLY DESERVES MEDAL

In an age when television breezily creates amazing cop heroes who predictably overcome incredible odds to save lives week after week, real-life officers who put their lives on the line for someone else may seem like pale imitations of fiction. Too bad. The real men and women who patrol the streets and respond to real emergencies deserve public recognition and thanks.

It's good to know that Ross County Sheriff Thomas Hamman recently received the attorney general's Ohio Distinguished Law Enforcement Valor Award for rescuing a wounded 7-year-old boy from his revolver-wielding father.

Last Aug. 20 an anger-consumer Piketon man forced his estranged wife and son into a car and drove off. The woman escaped, and eventually law-enforcement officers, pursuing the man, trapped him on a dead-end street. Hamman tried for several hours to talk the father into releasing the boy. No dice.

The man finally said he would surrender, but suddenly a shot rang out from the car.

"Daddy, you shot me."

Hamman flew into action. As the sheriff reached for the door of the auto, the driver shot himself, then pointed his gun at the boy again. Hamman grabbed the lad by the T-shirt, pulled him out of the car and blocked the father's line of fire with his own body. It was gun vs. gun for a moment; then the father slumped, dead by his own hand.

The 7-year-old survived the hideous incident.

It's hard to imagine a bolder act of selflessness than Hamman's swift intervention.

The award of valor is indeed well deserved.

THE NEW WORLD SYMPHONY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, we have in this country a unique musical resource dedicated to the training and development of young concert musicians. The New World Symphony, based in the Lincoln Theatre in Miami Beach, is the only postgraduate training orchestra in America.

Now in its fifth year of operation, the New World Symphony provides an opportunity for young musicians like violinist Gustavo Correa of Miami to work with other young musicians from around the country, like horn player Larry Williams of Maryland, and Violinists Darrin Qualls, from Gresham, OR, and Laura Hilgeman from Indianapolis, IN. They have the opportunity to meet and work with their peers from other countries, too; from Roglit Ishay of Tel Aviv, Israel to Keisuke Ikuma of Saitoma, Japan.

Led by Conductor Michael Tilson Thomas, the 95-member orchestra provides these young musicians with opportunities they could not get in any other setting. They have the opportunity to rehearse in much greater depth than a major orchestra can afford to do. They are encouraged to develop their creativity, not just the technical proficiency required by grownup orchestras. And they have time to ask questions and learn. After an average of 3 years, members of the New World Symphony are able to go on to major orchestras around the world. Horn players Thomas Hadley and David Bushnell are now at the Florida Philharmonic in Tampa. T. Alan Stewart plays the double bass for the National Symphony Orchestra, and Orna Carmel plays cello for the Orquestra de Castillo in Spain.

The Independent, of London, England published two articles about the New World Symphony's tour of the United Kingdom earlier this year, which I would like to include in the RECORD:

PIONEERS ON STARSHIP AMERICA

(By Edward Seckerson)

They used to show movies at the Lincoln Theatre, Miami Beach; but it's been a while since the last picture show. These days they make music there. The New World Symphony, America's one and only national training orchestra, calls it home; in a sense, dreams are still made there. Over the last few weeks this 95-strong cross-section of the nation's brightest and best have been putting together the bill of fare for their first UK tour: Mozart, Brahms, Prokofiev, and Gershwin have been rubbing shoulders; the phantasmagorical pageantry of Charles

Ives's seminal Fourth Symphony has all but taken the Lincoln Theatre apart at the seams. Next Sunday the same symphony promises to consume the Barbican in London: there can be no greater gesture of magnanimity from the New World to the old country.

So is the pioneering spirit of the New World Symphony a true reflection of its name? It would seem so. Since its inception in 1987, this ambitious and comprehensive training program has become more and more inextricably bound up with the rebirth of Miami's South Beach community—a cultural focus, if you like, for the style conscious Art Decorich "American Riviera", as it's now sometimes called.

Michael Tilson Thomas is the orchestra's Columbus, its founder and spiritual godfather: he knows all about the importance of good beginnings, the growing pains of coming of age as a musician, the insecurities, the indecisions. He created the New World Symphony to be a kind of musical internship, a live-in working community where talented post-graduates could develop a sense of what it is really like to be part of a busy symphony orchestra: a place to explore the repertory and confront the key issues of style. It might provide the vital stepping-stone to that "job of jobs".

"Young musicians ask a lot of questions and very often the questions they ask prompt me to consider the music in a way that I have never done before. So it really does take my own thinking further to work with them. And it's so rewarding seeing gifted but inexperienced players grow in confidence and awareness and start seeing beyond the dots and dashes on the page to the subtext of the music."

Tilson Thomas is a stickler for subtext. What is the background here, what is this music really saying? What is our connection to it? No one at NWS is likely to be thinking: "Forget the history lesson—do you want it louder or softer?" Besides, there are ways of enlivening even basic technical information: "Tutta forza everybody—take no prisoners." Or conversely, "Violins, just take this out of the air—just graze the string . . . I want you to play this minuet as if 'on point'."

With players as impressionable and receptive as these, so much depends upon knowing exactly which buttons to press. Violinist Alison Heydt seconds that: "Michael is a natural motivator. He has a knack for making you feel that everything hangs upon the way you play a particular phrase."

Bassoonist Eric Hall values Tilson Thomas's ability to create space for the wind soloists to express their individuality. "Michael is not in the business of cloning—in this orchestra you have a chance to experiment with your own style and sound. And the system of rotation means that we all get to experience the very different demands of principal and supporting roles."

Which is another way of saying that everyone at NWS gets to occupy the hottest seats. Not that there are anything but hot seats in the Fourth Symphony of Charles Ives. This will be the second time in its short history that the orchestra has made this fantastic voyage of discovery aboard the Starship America.

THE MIAMI VOICE

(By Meredith Oakes)

How does a youth orchestra from Florida fill the Barbican on its first visit? Telephone bills must have been high. The New World Symphony, founded in 1988 by Michael Tilson Thomas, bears witness to his extraordinary powers of mobilization. Every American in London seemed to have become part of Friday's audience. By Sunday, the English accents had re-taken the foyer in a late surge of interest suggesting that last-minute publicity can work wonders in a good cause.

Florida is, in effect, host to an American national youth orchestra where players in their twenties can serve an "internship" while establishing their careers—a generous host, with state money and private sponsorship joining national funding. The programme book for this British tour was a down-home newsletter, celebrating major private donors in print and pictures.

Sunday's all-American concert was the greatest success of the two, with the riskiest work, the Charles Ives Fourth Symphony, scoring the final definitive triumph. Tilson Thomas spoke first of Ive's aspiration: to bring an entire chaos of human sounds into visionary communion. The the London Philharmonic Choir sang, with brisk elegance, the hymn tunes that are staples of the work. The performance followed straight on. For Ives, noise and pre-existing music were concrete elements of equal status, and he was the concrete mixer, throwing together a new, much-needed substance in a refreshing roar.

The playing was wonderfully rowdy and wonderfully exact. The multiple tunes meshed like cogs within a huge, rhythmically irresistible machine. Different sections jumped to their feet to launch their themes like people in a crowd throwing their hats. Christopher Oldfather, in the orchestral piano part, looked like an etiolated, bearded, ponytailed hermit and played as if hearing voices in the desert. The quiet, sudden end, with Ive's world lapped in tranquil elemental cradle sounds, left a sharp afterimage in the silence.

The first concert (Mozart, Prokofiev, Brahms) had told us, inevitably, that the orchestra is full of talent. The sound was chunky: precision and sensitivity without overgrooming. Among many fine principals, the clarinettist Todd Levy produced a discreet, voluptuous tone that even in this company was special. Seldom has Michael Tilson Thomas seemed more at home, relaxed and instinctive, whether subtly directing the most natural headlong flow of Mozartean energy, or sitting at the keyboard playing Gershwin with dazzling octaves and stomping bass (is this where Messiaen got his best chords?).

Joanna Macgregor, soloist in Prokofiev's Second Piano Concerto, was technically magnificent, and true in spirit to the composer's grand exuberance, though even she couldn't come up with all of the energy all of the time: how many pianists can?

Mr. Speaker, I commend Ted Arison, owner of Carnival Cruise Lines, and one of the founders of the New World Symphony. I commend cofounders Woody Weiser, now chairman of the board, Jeffrey Babcock, and conductor Michael Tilson Thomas. Their commitment to developing the musical culture of this country, supported by orchestra president Christopher Dunworth and his able staff, has provided us an important and unique cultural resource.

IN RECOGNITION OF ROBERT MORALES

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. PELOSI. Mr. Speaker, I rise today in recognition of a special individual, Mr. Robert Morales, an outstanding leader in the San Francisco labor movement and civic community.

Robert Morales was born in El Salvador, and emigrated to the United States at the age of 16. He graduated from Galileo High School, in San Francisco's Marina District, in 1960. From 1961 to 1963, Bob served in the U.S. Army.

He started his career in the union movement in 1964 with the Metal Polishers & Platers Union, Local 128, AFL–CIO, where he rose to the position of business-treasurer. In 1973, he became the business representative with Teamsters Local 350, the Sanitary Truck Drivers & Helpers. From 1976 to the present, he has served as secretary-treasurer of local 350. In 1981 Bob became a member of the Executive Board of Teamsters Joint Council No. 7, which serves over 75,000 members. He is also the first vice-president of the Hispanic Caucus of the Western Conference of Teamsters.

Bob has distinguished himself as an effective negotiator who has gained the strong and enthusiastic support of union members throughout the bay area. He is known as a consensus builder, and has adapted to the changing patterns of labor-management relations. Indeed, Bob engineered the largest solid waste management contract for his union in the United States.

As a past member of the San Francisco Film Commission, the San Francisco Board of Supervisors' Arts Task Force, the San Francisco Private Industry Council, and the Industrial Relations Research Association, Bob exhibits persuasiveness, innovation and creativity in dealing with any problem or issue that comes before him.

Bob has been accorded many honors for his philanthropic and charitable work by the San Francisco community, including the prestigious A. Philip Randolph Award, the San Francisco Labor Helping Hand Award, the Martin Luther King Award, and countless commendations. He is presently the president of the City College of San Francisco Foundation, helping guide City College into the next century.

On Friday, June 5, the Bay Area Union Labor Party will honor Bob with its 1992 Leadership Award. It awards an individual who excels in all areas of life. Mr. Speaker, I join the community in recognizing before this Congress the achievements of Bob Morales, who truly excels in all areas of life.

COMMENTARY ON THE RETIREMENT OF DR. RONALD W. SIMCOX

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. FAWELL. Mr. Speaker, at this time when there is a pervasive national concern regarding the adequacy of our public school system, it is a pleasure for me to direct the attention of this House to the accomplishments of Superintendent Ronald W. Simcox of Hinsdale Elementary School District 181 in Hinsdale, Illinois. After 23 years of distinguished service in this position, Ron Simcox will retire on July 1 of this year. He leaves with the deep gratitude of students, teachers, and parents who are all beneficiaries of his energetic, innovative and skillful administration.

Ron Simcox likes lighthouses. They adorn the walls of his office in paintings and are pictured on coffee mugs. Miniature lighthouses perch on his bookshelves and a lighthouse door knocker is mounted on his office door. To him, the symbolism of the lighthouse is compelling. He sees quality education, education that presses forward against the leading edge of dynamic new knowledge, as lighting the way to an exciting, richly productive future.

When he chose the field of public education as his life career, Ron Simcox reached out to equip himself with the best credentials. He earned his bachelor's degree in mathematics and physics at Aurora College in Illinois, and followed this with a master's degree in school administration at Miami University in Ohio. He earned his doctorate in the same field at the University of Illinois in Urbana-Champaign.

After teaching in Illinois and Ohio schools, Ron served first as assistant superintendent, then superintendent of School District 86 in DeKalb, Illinois. In 1969 he was chosen as school superintendent of both the elementary and high school districts in Hinsdale, Illinois. For the last 19 years he has served as superintendent of Hinsdale Elementary District 181.

Ron Simcox' school administration has been marked by sound management practices, accomplishing his goals for the school system within budget after inheriting a history of deficits. At the same time he has implemented innovative curriculum changes which introduced the boys and girls of Hinsdale and neighboring communities to essential new areas of knowledge which they will need to be successful adults. These students understand the importance of science in their world, the importance of computer technology in their world, the importance of art and the natural environment in their world.

Aside from his responsibilities as school district administrator, Dr. Simcox has maintained an active civic interest in other vital concerns of the Village of Hinsdale. He and his wife Bette are both involved in community activities. Their three children matriculated through the schools of district 181. Ron has served terms as president of both the Rotary and the Chamber of Commerce. He served as chairman of Cub Scout and Boy Scout Troops. He is past president of the Campo Fiesta Foundation that supports a camp for girls.

And so, still in the vigor of his years, Ron Simcox veers off from this adult lifetime of intense and magnificently productive activity to go into retirement. I feel confident that, being Ron Simcox, he has already explored new areas that are worthy of his intellect, energy and experience. In whatever he may choose to do, all of his friends wish him well.

EARTH SUMMIT

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. OWENS of Utah. Mr. Speaker, I fear that one of the real opportunities for human kind on Earth may pass away during the next week without the achievements and agreements we should rightly expect. I fear this because the environmental President, as is his habit, is once again standing as the lone, sole obstacle to actually creating an environmental and economic agenda for the Earth and our future.

There is, as the President has said, a new world order on the horizon. But it will be the result of accord, not between the East and West, but between North and South. No one has to lose in this negotiation. And none of us wins if the Earth is lost. The North needs to commit to the pursuit of new technologies that we can share with the South to prevent both pollution and possible climate change, and the South needs to commit to a renewed respect for the biodiversity of this planet so much of which happens to be under their care. We will both pay somewhat in the short term for the preservation of this one and only Earth. We will both benefit enormously in the long term from the protection of our home. There is no other way.

We talk a lot about the big picture back here in Washington. But the big picture we should be concerned with right now is the photograph of our beautiful blue planet floating alone in the black void of space. My friend from Utah, Senator GARN, who is attending the Earth Summit, could tell us a little about the power of that image from the window of a space shuttle. But too many of us have seen the picture without really absorbing its meaning. We need to decide right now how much of our harmful impact on the planet is essential and unavoidable and how much of our impact can and should be curtailed. We live on a finite planet. The realization is slow in hitting us—and no nation can seek a waiver form the rest in our role as caretakers and custodians and guardians.

In Rio this week, the world will make its first joint effort to plan for the biological and economic future. The American voice, I believe, will be strangely silent, as the environmental President comes mute when faced with real, politically difficult, but absolutely essential, decisions. This isn't leadership. It isn't even followership. It is jumping ship. The world needs more than hot air from George Bush. I hope we contribute more than blustering to this grand and ambitious discussion.

For the past century, we have led the world in environmental protection. We have provided the model for national parks, for clean air, and clean water laws, for wildlife preservation. This week, we will puzzle the world entirely if we abdicate that role and slink away without action, without commitment, and incredibly enough, from the President's standpoint at least, without guilt.

This is not a time for the United States to seek competitive advantage through being a more determined polluter than other nations. The Earth has been voiceless for far too long. Join in the chorus this week, Mr. President. Don't sing off key. We need a hymn, not the dirge we've heard for the past 3½ years. We are witnessing the utterly ludicrous spectacle of the so-called environmental President standing as the champion of industry and development at any price at the one time in Earth's history to this point when the voice of reason and moderation and love for this planet must be heard from the most powerful, most resource-hungry, and wealthiest Nation on Earth. How could the press and media miss this delicious irony? How could we not be ashamed and embarrassed, that this far-sighted and devoted effort should be blind sided by an American President? Teddy Roosevelt must be averting his eyes on Mount Rushmore. At least Ronald Reagan never had the colossal gall to try and deceive us. He had no environmental commitment or conscience and simply admitted it.

Surprise us, Mr. President. Show us you can transcend myopic, partisan politics. Plan for the future. Ensure our children's heritage. Be valiant. In any case, whatever you do, be assured we will give you all the credit you deserve.

AIRCRAFT MAINTENANCE FIRM RISES OUT OF MIAMI'S AIRLINE TROUBLES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Miami's Professional Modification Services, Inc. [PMS], which recently was featured in the Miami Herald. The company, which is owned mainly by four former Eastern Airlines mechanics, has experienced explosive growth in the last 3 years. The article "Plane Repair Firm Reaching Great Heights" by Larry Birger tells how PMS has become Miami's largest employer of those who lost their jobs due to recent airline bankruptcies:

One month before the Eastern Airlines strike began in March 1989, sheet metal mechanic Tony Aulet took a part-time job at Professional Modification Services Inc. a fledgling aircraft maintenance company at Miami International Airport.

"I knew that if the strike lasted for any length of time, I'd be hard-pressed to support my family unless I found a job," Aulet recalls.

Twenty-six months later, Aulet says he couldn't have made a smarter decision though he had no idea at the time that the walkout which he supported would lead to the carrier's demise.

While their stories differ, hundreds of the Eastern, Pan American, World Airways, and

Midway Airlines maintenance workers also have joined Professional Modification Services often called PMS. The company's labor force has grown from less than 50 at the time Aulet came aboard to more than 430 now at least; 90 percent being from Eastern, Pan Am and Midway.

REVENUES SOAR

The reason is PMS' explosive growth. Since 1989, when the company grossed $6.9 million revenues have climbed spectacularly. They hit $11 million in 1990, $18 million in 1991 and are expected to top $25 million this year. Profits have kept pace, the company says, but it declines to disclose them.

One reason the company is so attractive to the former airline workers is that four of its five owners are former Eastern mechanics and well-known at the airport Henry Alvarez, president Manny Garcia vice president-tech services, Thomas Chamberlain, vice president, sales and Ralph Dominquez general manager.

A TRAGIC NOVEL

"A lot of people told us we were crazy, that Eastern would never close down." Alvarez says. "But all of us had the feeling that the airline was like a tragic novel, that it was only a few pages from the end."

Besides, PMS was handling maintenance for several more carriers, such as Evergreen International. Avensa and American Transair, and the Eastern Four were tiring of pulling double work shifts.

The Eastern mechanics started out doing major maintenance checks on 727s that range in cost from $350,000 to $1.5 million. Now the company specializes in similar checks of DC-9s as well.

By the time the four ventured out on their own their reputation for doing good work had spread. It wasn't long before they signed contracts to maintain the U.S. Postal Service's fleet of 727's that are flown by Ryan International Airlines.

Other major contracts included maintenance for Midway jets, a business the company lost when Midway went out of business and for DHL the giant counter company.

Bruce Terrell, heavy maintenance manager for Ryan, has nothing but praise for PMS skills in overhauling its 25 727's and seven DC-9s "Price-wise, PMS is very competitive and they do quality work," Terrell says.

The flow of contracts has increased so dramatically that more space became a must. The company leases Hangar S, once used by Pan Am and the hangar abandoned by Midway when it went under in late 1991. Both hangars are on the Northwest 36th Street side of the airport.

When the Midway hangar was leased it had an extension attached to its north side. known as a "dog house" That allows PMS to increase the number of 727 aircraft that can be serviced at any one time from two to three.

PMS latest coup was winning a contract to maintain the Trump Shuttle fleet of 727's that operates between New York and Washington and New York and Boston. USAir flies the routes.

Alvarez is quick to credit the skill, tenacity and devotion of the ex-Eastern, Pan Am and Midway mechanics for the company's quality and on-time performance.

SEEKS TOP WORKERS

But he also says that not all former workers for major airlines need apply at PMS. The company is careful to hire only those mechanics who they knew to have good work habits when they worked for the large carriers.

PMS is a nonunion shop and wages average $14.50 to $15.50 an hour, though some employees earn as much as $22 an hour. While workers get medical insurance and paid vacations of up to three weeks there is no pension plan nor flight privileges, something the former airline employees were accustomed to receiving.

While most workers pledge fidelity to PMS, Alvarez concedes that 30 percent to 35 percent would probably leave for a position with a major airline if offered the opportunity, even if it means leaving Miami. Indeed some are being hired by American and Northwest airlines, at lower pay than PMS offers.

"There's just that feeling of security and the flight privileges that is attractive." Aulet says. He was earning 21.59 an hour at Eastern and began at $14 an hour at PMS. His current salary, two years later is still below what he was making when the strike began.

"Our pay scales and benefits are designed to keep us competitive and remain in business." Alvarez says, "Sure, we could pay higher wages and go broke, but then no one would benefit, least of all the employees who work for PMS."

I am happy to pay tribute to PMS chairman, Yoel Saraf; president, Henry Alvarez; vice president, tech services, Manny Garcia; vice president, sales, Thomas Chamberlain; and general manager, Ralph Dominquez by reprinting this article. They have shown how you can go far beyond your goals through hard work and determination. PMS is well equipped to face the challenge of filling the void left by Eastern Airlines.

HAWKEN WHIZ KID CARWIL JAMES GETS SLOT ON ELITE CLUB

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. STOKES. Mr. Speaker, I rise today to recognize a young man from my congressional district who was featured recently in the Cleveland newspaper the Plain Dealer. Carwil James is an outstanding 16-year-old student from Hawken School who has been chosen along with five other American students to participate on the international delegation of the U.S. Physics Team. Members of the team will compete against Chinese and German students in Helsinki, Finland in the 23d International Physics Olympiad.

I had the distinct pleasure of meeting Carwil when he was 12 years old. At that time, Carwil was representing Hawken School and the State of Ohio in the 1989 National Mathcounts Competition and boasting a 1,300 SAT score.

Mr. Speaker, Carwil is a bright young man of immense talent who is destined for success. I join his proud parents Frank and Carolyn James along with his principal and instructors at Hawken School in commending him on this great accomplishment. At this time, I would like to share with my colleagues the article from the Plain Dealer:

HAWKEN WHIZ KID GETS SLOT ON ELITE CLUB: THE FISH TO COMPETE IN WORLD PHYSICS OLYMPIAD

(By Stephen Koff)

Chester Township.—Doogie Howser's got nothing on The Fish.

First of all, The Fish, a.k.a. Carwil James, is a self-described eccentric. The 16-year-old from East Cleveland likes to start conversations with strangers in restaurants just to see what they'll say.

Second, The Fish, who goes by "Fish-e" (pronounced "fish-ee"), is extraordinarily smart, with an out-of-the-stratosphere IQ of 176, he says. Observes Bob Shurtz, physics teacher at the private Hawken School near Gates Mills: "There's probably very little comparison between him and most other students."

Make that most other students everywhere. This is more than hyperbole; the precocious Carwil has just become a member of an elite club of high school students who are smarter in physics than all other high school students in America.

There are only five slots on the international delegation of the U.S. Physics Team, which will compete against such countries as China and Germany in July in Helsinki, Finland, in the 23rd International Physics Olympiad. Carwil, of 16057 Brewster Rd., won one of those five slots last week at a national competition in College Park, Md.

"I'm excited about it and really happy that I made it," he said yesterday, in between end-of-year exams at Hawken. "I wasn't certain that I was going to."

Such uncertainty seems uncharacteristic for this teen-age whiz kid, who skipped his sophomore year of high school and will pass over his senior year so he can start college next fall at Northwestern University in Evanston, Ill. But physics teacher Shurtz had faith, having seen what else his student could do. Last year, Carwil was the Ohio physics champion in the state Test of Scholastic Achievement, Shurtz said.

And although he's still in high school, Carwil has been taking abstract algebra and linear algebra courses at John Carroll University, and scoring at the top of the class.

He also gets A's in math and plans a double major in physics and math. But in English and Spanish, he's only human: He only gets scores of 90, he said, out of 100 possible points.

There's something about science and math, and it may be in his genes. His father, Frank James, was a pathologist who now owns a microscope sales and repair business, James Micro Service. His mother, Carolyn James, was a genetics researcher who now works with her husband in the business. Carwil said he has a half-brother and two half-sisters, but all are in their 40s, so he did not grow up with them.

Whatever its source, his gift is by all accounts extraordinary. "If I'm introducing a new topic and I'm explaining what theorum we're investigating, what theorum we're about to learn, he can grasp what the theorum is and how to apply it before the rest of the class even understands what the heck the question was," Shurtz said.

The ultimate test will be in Finland, where teams from more than 30 countries will compete. Individual team members will get written and laboratory tests, with college-level material that Carwil and the others have not been exposed to. They'll be given just enough information to prove how smart they are—to show whether they can apply everything they've learned to the new applications and make sense of it all.

All expenses, including the Maryland qualifying trip, are being covered by corporate sponsors including BP Research, IBM, General Electric and Lockheed. The American team is supervised by the American Association of Physics Teachers, a division of the American Institute of Physics.

When he was younger, Carwil was told by another student at Hawken that it was impossible for high school freshmen to pass physics, normally taken in the junior or senior year. "So I took it," he said.

After college, he says he'll probably pursue an advanced degree. But when asked what his ultimate plans are, the genius leaves and the normal 16-year-old high schooler comes out—the one who calls himself. "Fish-e" because, "Fish are just generally associated with lots of stuff."

What's he plan to do with all this physics? "I have no idea," he says.

TRIBUTE TO COLONEL WILLIAM R. HUMBAUGH

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. HOPKINS. Mr. Speaker, I want to bring to the attention of this House an example of exemplary dedication and service to our Nation. On July 29, 1992, Col. William R. Humbaugh will leave his command of the Lexington-Blue Grass Army Depot in Kentucky. Colonel Humbaugh has served in this post since July 24, 1990, compiling a record of excellence and demonstrating the utmost sensitivity to the needs of the depot's employees during the upheavals of the base realignment and closure and downsizing actions.

I insert the following proclamation by the employees of the Lexington-Blue Grass Army Depot into the RECORD:

LEXINGTON AND BLUE GRASS FACILITIES

PROCLAMATION

Mission First, People Always

This proclamation issued 11 June 1992, by the Lexington-Blue Grass Army Depot employees, at the Lexington Facility, Lexington, Kentucky, and at the Blue Grass Facility, Richmond, Kentucky, do hereby proclaim as follows:

1. Whereas, Colonel William R. Humbaugh, has faithfully served as Commander of the Lexington and Blue Grass Facilities, hereinafter referred to as the Lexington-Blue Grass Army Depot, during the period of 24 July 1990 through 29 July 1992, with total dedication to us (the employees), to our employer (the Department of Army), and to our country (the United States of America).

a. For us, the employees of the Lexington-Blue Grass Army Depot, Colonel William R. Humbaugh has implemented a "we care about you" attitude that has rolled downhill from the highest level of management to the first line supervisor. The Lexington Facility was announced as being on the "hit list" of Base Realignment and Closure (BRAC), 28 December 1988; pressure on the Blue Grass Facility to be realigned was evident as Phase I of the BRAC actions resulted in relocation of employees. In addition to BRAC, an action called the Defense Management Review (DMR) "downsized" our personnel in a reduction-in-force effort. A major population of our depot employees were affected by the BRAC law and the DMR. Mental and emotional stresses went hand in hand within an unstable job market throughout the world and an uncertain employment future for our Kentucky federal workers. "We care about you," Colonel Humbaugh said, and with candor and compassion, here are some ways in which he dispersed vital BRAC information within his organization:

(1) The "we care about you" briefings relating to BRAC actions were discussed on a one-on-one basis for those who wanted to attend a monthly, early morning, informal meeting called the Commander's Breakfast. In addition to BRAC information, any employee who attended this breakfast had the opportunity to talk about any issue or concern that was significant to them or to the depot population as a whole. Also, if any employee had not met with Colonel Humbaugh personally, they were encouraged to use the Commander's Breakfast as an opportunity for conversation and "old-fashioned camaraderie." Colonel Humbaugh used the "nothing much, but simple touch" to communicate effectively in these meetings. From the first, we knew that the breakfast was an open meeting; however, if there was a matter to be brought to his attention, but not publicly, we had the chance to voice this concern at the end of the meeting with him privately.

(2) The "we care about you" town meetings were held quarterly, at the Lexington and Blue Grass Facilities with the latest BRAC information outlined in oral presentations and with time-line charts developed to ensure that all realignment locations and actions were public. Key personnel were on hand to answer questions in their field of expertise. Whether the subject matter was direction of an orderly transition of facilities and personnel from the Lexington Facility to the Blue Grass Facility, or an explanation of the 300th Transportation Group's—"Roving Wheels 1992"—movement of the general supply items from the Lexington Facility to Chambersburg, Pennsylvania's Letterkenny Army Depot, Colonel Humbaugh spoke to his audience with dignity and with confidence.

(3) Colonel Humbaugh supported the "we care about you" publications, both weekly and monthly, that informed and entertained the employees of this depot. An employee could look in the Weekly Bulletin and identify the daily duty officer, read the lunch menus for the Thoroughbred and Igloo Club restaurants, locate the representatives for U.S. Savings Bonds, become aware of the most recent job announcements, or buy furniture or an automobile. The Thoroughbred Review, the depot's monthly newspaper, focused on feature stories at the depot level up through higher headquarters: the United States Army Depot System Command (DESCOM) and the United States Army Materiel Command (AMC). Also, featured in the newspaper was an entire page devoted to the Commander's comments, called the Commander's Column. In this column, the Commander offered a personal view of what was going on in and around the depot, headquarters and throughout the world. He talked about issues and concerns. He offered solutions to problems because "we care about you" was his philosophy.

b. For our employer, the Department of Army, Colonel William R. Humbaugh has earned the reputation that "no one does it better" than the Lexington-Blue Grass Army Depot. Even though the Defense Management Review actions resulted in a 24 percent reduction in personnel strength, the Desert Shield and Storm conflict increased the depot mission over 100 percent.

(1) Employees of the Lexington-Blue Grass Army Depot processed over 50,000 individual documents in support of the United States and coalition forces deployed to southwest Asia (SWA). They worked a 2-shift operation to meet the "no one does it better" shipping demands for ammunition, general supplies and communications/electronic equipment.

(a) Statistically, the tonnage of ammunition and supplies shipped to SWA equates to 70 tons per the "no one does it better" Lexington-Blue Grass Army Depot employee; for a period of time this was the record tonnage for being the "most ammunition shipped from any of the other Army installations within the depot system." This recognition was earned by the movement of 51,003 short tons of multiple launch rocket pods, C-4 explosives, impulse cartridges, artillery projectiles, and artillery propelling charges.

(b) Further, shipments of general supplies and equipment totaled some 6,799 short tons of stock, such as, chemical protective masks and hoods, decontamination agent, chemical detector kits, chemical filters, desert camouflage nets, tents, body armor, and energy absorbing pads for airdropping equipment. In addition, the "no one does it better" Kentucky employees, shipped within a 16-hour period, 35 truckloads of camouflage nets to the Army's soon to be deployed 24th Mechanized Infantry Division.

(c) Nine hundred and thirteen short tons of major equipment items were shipped by the "no one does it better" employees; eight transporters (weighing 54 tons each) for moving and dockloading; forty-one customized vans for tactical and repairing communications and electronics equipment; and one oil analysis van to predict engine life and to alert operators of potential failure. From concept to shipping, which previously took more than a year, the teamwork of Colonel Humbaugh's employees built this second mobile oil analysis van within a 3-month period.

(d) Lexington-Blue Grass Army Depot was the Army's only source for secure communications equipment and materials, shipping 107,687 items of electronic encoding equipment for secure communications systems. Also, shipped were 28,103 encryption coding keys, devices which code and activate the electronic encoding equipment that prevented the enemy forces from monitoring the radio traffic of our home team.

(e) The "no one does it better" teamwork shipped 890 fully loaded rail cars, dispatched over 5000 fully loaded semi-trailers and 6000 (plus) partial loads.

(2) In support of the Army's military personnel, Colonel Humbaugh personally approved the deployment of 35 (2 military, 33 civilians) "no one does it better" Lexington-Blue Grass Army Depot employees to serve their country in the Desert Shield and Storm War.

c. For our country, the United States of America, Colonel William R. has been distinguished as a soldier with exemplary behavior in war and peace. He has received the Bronze Star Medal, the Defense Meritorious Service Medal, three awards of the Meritorious Service Medal, the Air Medal, three awards of the Army Commendation Medal, and the Meritorious Unit Citation. His courage and loyalty as a military man, his dedication to his wife (Nancy) and sons (Scott and Mark), are cornerstones for the spirit of America that our forefathers did not find freedom to exercise in other countries.

2. Therefore, be it hereby proclaimed by the employees at the Lexington-Blue Grass Army Depot, in the One Hundred and Second Congress of the United States of America, that:

Whereas, Colonel William R. Humbaugh has been a person of sincere empathy to each of us in an action called Base Realignment and Closure, and we are sure that "he cares about us."

Whereas, Colonel William R. Humbaugh has been our team leader as the depot earned

the reputation of "no one does it better," and we are confident that no one will seize that position from us.

Whereas, Colonel William R. Humbaugh has been a man of exemplary courage in his Army career, and an example to follow in family values.

3. And therefore, we, the employees of the Lexington-Blue Grass Army Depot, thank Colonel Humbaugh for his gracious and courteous manner, his considerate ways, his individual attention to each person that came into contact with him. In the words of our 30th President of the United States of America, Calvin Coolidge: "No person was ever honored for what he received, honor has been the reward for what he gave." Today, we honor and thank you, Colonel William R. Humbaugh. We salute you on a job well done.

TOBI AND MARTIN ROGOWSKY HONORED

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mrs. LOWEY of New York. Mr. Speaker, this evening the UJA-Federation Campaign in Westchester County is honoring my good friends, Tobi and Martin Rogowsky. Tobi and Marty Rogowsky are leaders in our community whose efforts have made a dramatic difference in our quality of life.

Tobi Rogowsky has served our community unselfishly. She has been actively involved with the American Jewish Committee, serving as vice president of the Westchester Chapter and a member of its National Affairs Commission. She also serves as sisterhood president of the Jewish Community Center of Harrison, and on the executive committee on Harrison Hadassah. Throughout her work, she has been an inspiration to many and has stood as a powerful advocate for values important to our society's future.

Marty Rogowsky is now in his second term as a member of the Westchester County Board of Legislators, and in that capacity has worked hard not only to represent his constituents, but to bring them personally into an active role in the government of our county. Beyond his tireless work on the county board, Marty has found the time to devote himself to many other worthwhile efforts. He serves on the boards of the Jewish Community Center of Harrison and of the Westchester Chapter of the American Jewish Committee. He also dedicates time to the board of the Westchester Division of the American Cancer Society, the Port Chester-Rye Brook Chamber of Commerce, and Port Chester's Carver Center.

Tobi and Marty Rogowsky understand Westchester County. From his days as administrative assistant to Congressman Richard Ottinger, Marty has made it his business to know Westchester, its needs, and concerns. Likewise, Tobi has been deeply involved in many aspects of the life of our community. It has been my privilege in the Congress to work with these special people to further many important goals. I know that my colleagues join me in paying tribute to their numerous contributions and in encouraging them to continue their important work for years to come.

CONGRESSMAN LANTOS SPEAKS OUT AGAINST CHILD LABOR

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. PEASE. Mr. Speaker, in recent years I have actively sought to throw a spotlight on the resurgence of child labor abuses in America and the prevalence of the commercial exploitation of children in many countries around the world. Throughout my efforts, I have been joined by a steadfast ally in Congressman TOM LANTOS from California.

I commend to my colleagues for reading the attached article that my distinguished colleague, Congressman TOM LANTOS published earlier this year in the Labor Law Journal:

THE SILENCE OF THE KIDS: CHILDREN AT RISK IN THE WORKPLACE

(By Congressman Tom Lantos)

Today, more than 50 years after passage of the Fair Labor Standards Act of 1938 which is our nation's primary law regulating child labor, child labor violations remain a serious problem in the United States. There are growing numbers of children being exploited, injured, and maimed in the workplace.

Beginning in March 1990, the House Government Operations Subcommittee on Employment and Housing, which I chair, has held a series of hearings on children at risk in the workplace, and the escalation of child labor law violations across the nation.

At these hearings we heard dramatic testimony from Matthew Garvey, a Maryland youth whose leg was torn off by a blowing machine while working at a car wash when be was only 13. Suzanne Boutros from Indiana, whose 17-year old son, Jesse, was killed while driving to deliver a Domino's pizza; Claude and Jackie Hucorne, a Pennsylvania couple whose 17-year old son, Michael, was killed working in a supermarket while operating a baling machine that compresses cardboard boxes into flat bales; Joseph Curley from Pennsylvania, whose 15-year old son, Kevin, while working in a bakery where his parents thought he was bagging rolls, was killed when he got pulled inside the dough-mixing machine he was cleaning; Jennifer Forshee, who at the age of 15 cut off the top of her right middle finger while operating a slicing machine at a Burger King in Santa Rosa California; and Augustino Nieves. A 14-year old Mexican farmworker, who works 13 hours a day, in a stooped position picking strawberries in the fields of California, with pesticides such as sulphur stinging his eyes and burning his throat, and earning on a "best day" about $2.80 an hour.

It is important initially to recognize the value of work experience for youngsters, in that it can build character, teach them responsibility, provide training, and in some cases is an economic necessity. My concern and focus, however has not been on children working, but on children working excessive hours, in hazardous jobs, operating dangerous machinery, performing work in sweatshop conditions, and being exploited in the fields—all in violation of the Fair Labor Standards Act.

The most important job for our young people, who represent the future of our nation, is to get an education. Teachers report that excessively long work hours have a negative impact on youngsters' performance and achievement in school. Long work hours during school weeks provide little time for school homework and sometimes result in children falling asleep in the classroom. It also does not appear that most youngsters work because of economic necessity. A 1991 report by the General Accounting Office found that a larger percentage of children from families with annual incomes of over $60,000 were likely to be employed than those from families with annual incomes under $20,000.

There is an overemphasis on work among our young people to the detriment of study. While more than two-thirds of American teenagers work, in Japan the comparable figure is only 2 percent. While Japanese teenagers are in school studying math and science and learning about bullet trains, American teenagers are working to deliver pizzas in less than 30 minutes.

RAMPANT CHILD LABOR LAW VIOLATIONS

The number of federal child labor law violations has risen sharply in recent years, up from 10,000 in 1983 to over 40,000 in 1990. It appears that many employers have been following the Burger King law—"sometimes you've gotta break the rules."

On March 12–14, 1990, not coincidentally just days before the subcommittee's March 16 child labor hearing, the Labor Department, under the leadership and initiative of then-Secretary Elizabeth Dole, conducted a three-day nationwide sweep called "Operation Child Watch." A strike force of 500 investigators examined 3,400 businesses and found 7,000 young people working in violation of federal child labor laws. On June 6, 1990, again not coincidentally just two days before the subcommittee's June 8 child labor hearing, the Labor Department conducted a second sweep. Additional "Operation Child Watch" sweeps were carried out in mid-August and late September 1990.

Nationally, the four child labor strike forces or sweeps in 1990, which consisted of more than 9,500 child labor investigations, found over 29,000 child labor violations. These violations constitute almost 70 percent of the Labor Department's Fiscal Year 1990 total of 42,696 violations, and more than the 25,000 violations detected in Fiscal Year 1989. The 1990 Operation Child Watch strike forces found more than 28,000 youngsters working in violation of the Fair Labor Standards Act. This included 1,000 young people under the age of 14 found to be working illegally. In fact, child labor violations were found at about 41 percent of the businesses investigated.

These Labor Department sweeps helped to focus national attention on how significant and widespread the illegal employment of children is today and the undetected nature of the problem. If the Labor Department, using 500 investigators could find over 16,000 child labor violations during a three-day sweep in March 1990, imagine how many violations could be detected by a vigorous year-round enforcement program.

In a June 1991 report, the General Accounting Office estimated levels of illegal child labor employment far greater than the levels detected by the Labor Department. Based on available data, the GAP conservatively estimated that in 1988 about 166,000 or about 18 percent of all employed 15-year olds were working in violation of federal child labor laws, far above the approximately 14,000 children the Labor Department found illegally employed in 1988.

While the Omnibus Budget Reconciliation Act of 1990 increased the maximum civil penalty for each child labor violation from $1,000 to $10,000, the new law required that the fines

collected for child labor violations be deposited in the general fund of the U.S. Treasury. In the past, money collected for child labor penalties went to the Labor Department's Wage and Hour Division and was used for child labor enforcement activities.

Child labor complaints are rare. For example, last year there were less than 10 child labor complaints filed in California. Young people are often ignorant of their rights under the law, or they are afraid and do not complain about being exploited. Parents, too, are uninformed about child labor laws and about the hazards facing their children at work. Accordingly, the child labor enforcement program must be a directed one. There is a need for investigators to go out and detect where the child labor violations are occurring, even though there are very few complaints to respond to.

Former Secretary of Labor Elizabeth Dole told us that "the cop was on the beat." Incredibly, the number of Labor Department investigators has actually gone down nationally. As of June 1991, the Labor Department's Wage and Hour Division, which enforces the child labor provisions of the Fair Labor Standards Act, had 878 investigators for the entire country, almost 9 percent below the 961 investigators it had in Fiscal Year 1990. These 878 Wage and Hour Division investigators are also responsible for enforcing the minimum wage, overtime, and other provisions of the Fair Labor Standards Act, as well as provisions of the Immigration Nursing Relief Act, the Immigration Reform Act, and the Employee Polygraph Protection Act. The GAO estimated that Wage and Hour Investigators spend less than 5 percent of their time on child labor cases.

When I questioned Labor Department officials last summer about the need for more investigators, their response was "we have enough resources" and "we are maximizing resources we have." These responses are comparable to a police chief telling me that reducing the size of the police force would enable them to do a much better job of preventing crime. With more resources and more investigators, the number of detected child labor violations would be significantly higher.

The escalation of illegally employed children in the United States appears also to result in increased incidents of serious injury and death among children in the workplace. There is a need for more reliable data on the nature and extent of work-related injuries to children. For example, between 1983 and 1990, a seven-year period, the Labor Department detected a total of 1,475 serious injuries to children in the workplace. However, a recent study by Dr. Robert Ryder, Dr. Philip Landrigan, and Dr. Susan Pollack of the Mt. Sinai School of Medicine found that based on worker compensation data, an alarming total of 1,333 workers' compensation awards to children under the age of 18 in New York State alone in just 1986. Of these worker compensation awards, 99 went to children under the age of 15; 541 to children for a permanent disability; and 6 for work-related deaths. The reported injuries to working children in New York State in 1986 included chemical burns (12), thermal burns (108), lacerations (436), fractures (238), head injuries (109), amputations (21) and injuries of multiple body parts (87).

NEED FOR LEGISLATION

In April 1991, with Congressmen Donald Pease of Ohio and Charles Schumer of New York, I introduced child labor legislation entitled the Young American Workers' Bill of Rights. This bill, H.R. 2076, updates and strengthens the 1938 child labor law. It puts teeth into the Act by providing criminal sanctions for willful violations that result in death or serious injury to young people (maximum 5 years in prison) or that result in serious bodily injury to a child (maximum 5 years in prison). It provides that willful and repeated violators of child labor laws are ineligible for federal grants loans, or contracts for 5 years, and also are ineligible to pay the subminimum youth training wage. Further, it requires the Labor Department to publish and regularly circulate the names and addresses of employers who willfully violate child labor laws.

Civil fines by themselves against large companies often amount to no more than a slap on the wrist. When I questioned Robert Nugent, Jr., the president of Jack In The Box, a fast food chain with an annual business volume of $700 million, about the Labor Department citations totalling $125,000 issued against his company for child labor violations (later reduced to $94,000), he readily acknowledged it was "not a severe financial deterrent."

This bill for the first time establishes limits, 5 hours per school day and 25 hours per week, on the number of hours that 16- and 17-day olds can work when school is session. It also requires work permits for young people under the age of 18.

H.R. 2076 also authorizes a private right of action in cases of serious injury or death for minors and their families against child labor violators. Senators Howard Metzenbaum of Ohio and Christopher Dodd of Connecticut have introduced similar child labor legislation in the Senate, as S. 600.

SHIFT AT THE LABOR DEPARTMENT

In 1990, Labor Secretary Elizabeth Dole, prompted in part by our hearings, expressed a commitment "to protect America's children," and subsequently initiated a crackdown on child labor violations. However, under the current Secretary of Labor Lynn Martin, there has been a shift from enforcement to education and outreach efforts. In Fiscal Year 1991 the number of child labor investigations declined to 31,763, down 24 percent from 41,782 in Fiscal Year 1990, and 20 percent lower than the 39,986 investigations conducted in Fiscal Year 1989. The child labor program has been decentralized and spun off to regional offices with limited resources and with little monitoring by Washington headquarters. At a subcommittee hearing in August 1991, William Buhl, the Labor Department Wage and Hour Administrator for Region IX in California, was asked to describe some of the so-called "innovative approaches" his office had used. He spoke of writing to employers where there may be child labor violations and having these employers do self-audits!

I would therefore like to see a more visible and a far more vigorous commitment, from the top down in the Labor Department. A commitment from Secretary Lynn Martin to protect those who most need protection—our children. Working children are being injured, maimed, and exploited, often without complaint. The silence of the kids continues.

TRIBUTE TO NEW ENGLAND COLLEGE

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. SWETT. Mr. Speaker, this week the American Newcomen Society of the United States is honoring the New England College of Henniker, NH, at a special tribute dinner. I want to add my praises and congratulations to this outstanding college for their many fine accomplishments. I also want to commend the American Newcomen Society for recognizing New England College.

New England College has had great success in preparing its students for life in the global village. Its concept of one college with two campuses in two countries and its commitment to educate its students with a world view has produced students with an appreciation and readiness to succeed in today's world.

This world we now live in is extremely dynamic and complex. Many of the dictatorships of yesterday have become the democracies of today, and unfortunately, the reverse is also true—some of the democracies of yesterday are the dictatorships of today.

In the face of these dizzying changes, information and education have become even more critical to sound decisionmaking. For example, if I were setting up a plant in central Asia, it would be important for me to understand the region and know how politically stable it is. If I were planning to conduct business in Europe, it would be very important for me to know the status of the Maestricht Treaty and of the European Community in general.

New England College, with its dual campuses, has its finger on the transatlantic pulse. This unique program ensures that students learn about the world not only through books, but also through life experience. Education becomes more meaningful to the student when the information being taught is constantly reinforced through experience. The opportunity to live in another country is a very effective way to ensure that today's students gain an understanding of the complexity of life in an interdependent world.

This physical duality of the educational experience at New England College is enhanced by the individual attention to the student that New England College emphasizes. Support from faculty, an academic skills center, and small classes provide an environment in which each student can excel. These support mechanisms ensure that the liberal education that New England College provides can take root in fertile soil. The students' power of thought and reasoning are enhanced, giving them the ability to react and adjust to any given situation.

These three components of the New England College experience: Its two campus system, its student-centered approach, and its liberal education will help to ensure that today's New England College students will become tomorrow's leaders.

Mr. Speaker, I ask my colleagues to join me in paying tribute to New England College on their receipt of the Newcomen Society's recognition. It has been over 40 great years since the founding of New England College. I look forward to again saluting New England College on its golden anniversary of achievement in another 10 years.

INTERNATIONAL FAIR COMPETITION ACT OF 1992

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. BRYANT. Mr. Speaker, there are substantial indications that foreign manufacturers in certain industries use the superprofits earned in their closed home markets to engage in predatory practices in the United States. Therefore, I have introduced the International Fair Competition Act of 1992. This bill will amend existing antitrust laws to safeguard our free markets from anticompetitive conduct originating abroad. The unfair competitive strategy of using monopoly power in one market to engage in predatory pricing in another market is crippling American manufacturers and causing widespread loss of U.S. jobs. While the antitrust laws clearly would prohibit this type of conduct if engaged in by U.S. companies, these laws have limited application to the conduct of foreign companies operating in our market.

In 1986, in the case of Matsushita Electric Industrial Co. versus Zenith Radio, the Supreme Court held that—in spite of a finding by the court of appeals of monopolist practices—U.S. plaintiffs "cannot recover antitrust damages based on cartelization of * * * [a foreign] market, because American antitrust laws do not regulate the competitive conditions of other nations' economies." 475 U.S. 590, 1986. While the Court left open the possibility of a lawsuit where the foreign-based predator engages in systematic price discrimination in the United States, it placed a condition on such a suit which makes it a virtually unusable remedy for a still-functioning American business. The condition is that a plaintiff must not only prove that the price discrimination has resulted from the exercise of monopoly power, but that—after driving competitors out of business—the predator then raised prices "to recoup the predator's losses and to harvest some additional gain." Unfortunately, the only Americans who benefit from the Supreme Court's interpretation are the bankruptcy trustees and lawyers for decimated U.S. companies.

For nearly a century our Nation has benefited from a national policy—embodied in our antitrust laws—which encourages aggressive, fair competition among suppliers of goods and services. The result has been the most dynamic marketplace on earth in which consumers enjoy a plethora of choices found nowhere else and where entrepreneurs can be confident that the competitor with the best product at the best price will thrive.

The effectiveness of our system of antitrust enforcement is now being eroded by the fact that American consumers and businesses now find themselves functioning in an international marketplace which was never envisioned when the Sherman Act and the Clayton Act were written early in this century. Some of our trading partners use a different rulebook and permit predatory practices—particularly when doing business in our marketplace—which long ago have been abandoned by U.S. business. Unfortunately, the Supreme Court has failed to interpret our laws to encompass effectively internationally based anticompetitive and predatory behavior.

Enactment of the International Fair Competition Act will give victims of anticompetitive, predatory practices originating outside our borders the ability to seek effective relief in U.S. courts.

Briefly, the bill amends existing antitrust laws as follows:

It permits suits for treble damages against anyone who commonly and systematically exports into the United States an article to be sold at a price less than the its average total cost, where:

The effect is to destroy or injure commerce, prevent establishment of a line of commerce, or substantially lessen competition in the United States and,

The foreign country exporting the article lacks effective price competitors or is substantially closed to effective international competition.

Mr. Speaker, the International Fair Competition Act is not a trade bill. It does not prevent the sale of any foreign-made products in the United States. It does not stop a foreign-based company from selling goods in the United States at prices which are lower than those charged in its home market. It simply updates our Nation's system of private antitrust enforcement to prevent foreign-based companies from exporting the fruits of monopoly power in their home markets into the United States to the detriment of our industries and our economy. This bill will discourage foreign-based companies from using monopoly power in their home markets to force customers in those markets to pay the cost of the predatory activity in the United States.

I look forward to working with my colleagues to bring this much needed legislation to the floor for action this session.

H.R. 5348

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 "International Fair Competition Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) all nations should enact and vigorously enforce strong competition laws to benefit consumers, encourage international competition, and foster growth in jobs, productivity, and investment;

(2) industries should not be allowed to take advantage of weak or nonexistent competition law enforcement in their home markets to compete unfairly in markets that do have strong competition laws and effective enforcement;

(3) existing United States antitrust law is inadequate to prevent international competitors from unfairly exploiting United States markets; it should be amended to recognize that lack of competition abroad should not result in unfair competition domestically; and

(4) United States antitrust laws applicable to foreign competitors that export articles to the United States market should be consistent with United States antitrust laws that are applicable to domestic business conduct.

SEC. 3. EXPORTATION OF THE UNITED STATES AND SALE OF ARTICLES BELOW COST.

(a) AMENDMENT.—The first paragraph of section 801 of the Act of September 8, 1916 (15 U.S.C. 72), is amended to read as follows:

"It shall be unlawful for any person that exports or assists in exporting an article from a foreign country into the United States, commonly and systematically to export the article into, cause the article to be exported into, or cause the article to be sold within the United States, at a price that is less than the average total cost of the article, if—

"(1) the effect of such importation or sale may be to—

"(A) destroy or injure commerce in the United States;

"(B) prevent the establishment of a line of commerce in the United States; or

"(C) substantially lessen competition or tend to create a monopoly in any line of commerce in any section of the country; and

"(2) the foreign country's market in the article—

"(A) lacks effective price competition among competitors; or

"(B) is substantially closed to effective international competition.".

(b) The second paragraph of section 802 of the Act of September 8, 1916 (15 U.S.C. 72), is repealed.

SISTER DESENA TO RECEIVE THE CROSS PRO ECCLESIA ET PONTIFICE MEDAL

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. GUARINI. Mr. Speaker and distinguished colleagues, I ask you to join me in recognizing Sister Jeannette Desena, M.P.F. Sister Desena, a native of Bayonne, NJ, will be the recipient of the Cross Pro Ecclesia et Pontifice Medal, which the Roman Catholic Church considers to be one of the highest honors that can be bestowed upon a religious or lay person. Sister Jeannette will receive the award on Thursday, June 11, for her outstanding work on behalf of the Holy Mother Church. Archbishop Theodore McCarrick will officiate at the ceremony in the Sacred Heart Cathedral in Newark.

Sister Jeannette is the daughter of Lucy Desena and the late John Desena. She graduated from Roosevelt School, and later attended Holy Family Academy. She left to become a sister with the Community of Religious Sisters Filippini, becoming the first young lady to enter the convent from the parish of Our Lady of Assumption. She later attended Villa Walsh Academy, St. Elizabeth College, Seton Hall University, Fordham University, Kean College, Dunbartron College (Washington, DC), and Steubenville College (Ohio). She holds a B.S. and an M.A. in education, as well as certifications in administration and supervision.

Besides having been a teacher in elementary and secondary schools, Sister Jeannette has been an elementary school principal, a community elementary school supervisor, the elementary assistant superintendent of the Archdiocese of Newark, and has served in the dioceses of Newark, Paterson, Scranton, New

York, and Brooklyn. She is currently the principal of the Ironbound Interparochial Elementary School, in Newark. At the present time, she is a member of the board of trustees of the Benedictine Academy, a member of the Rutgers University Curriculum Advisory Board, and is also a member of the Archdiocesan Task Force for Essex County. She is a eucharistic minister and lector, and as a speaker, is in much demand at PTA and Rosary Society meetings.

Sister Jeannette has received many awards of excellence, including the NCEA Presidential Award, the Archdiocesesan Board of Education Award—(for service to schools in the archdiocese)—and recognition from the Essex County Principals' Association for her outstanding contributions to education.

Mr. Speaker and distinguished colleagues, I ask you to join me in recognizing Sister Desena for her dedication and excellent work and in congratulating her for being awarded the Cross Pro Ecclesia et Pontifice Medal.

MIAMI INSTITUTE OF PSYCHOLOGY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to call my colleagues' attention to the Miami Institute of Psychology, a division of the Caribbean Center for Advanced Studies, and their innovative approach to mental health services and education. The Caribbean Center and the Miami Institute of Psychology are dedicated to providing services and education in a way that accepts different behaviors based on the social, spiritual, and cultural differences of the people they serve. With the leadership of Dr. Salvador Santiago-Negron, president of the Caribbean Center of Advanced Studies, Dr. Evelyn Diaz and Theresa Abizu-Diaz of the Miami Institute, the center has been training psychologists in Puerto Rico and Miami since 1966.

The Caribbean Center for Advanced Studies originated in 1966 when the Puerto Rico Institute of Psychology was founded as the first mental health educational institution on the island. The few mental health professionals in Puerto Rico at that time had been trained off the island. These professionals created the Puerto Rico Institute of Psychology to develop and teach theories and practical methods of mental health treatment which take into account the cultural differences among their patients.

The Miami Institute of Psychology was established in 1980 to serve the need in the continental United States for graduate psychology programs sensitive to cultural issues. As part of its service to the community of Miami, the Miami Institute of Psychology operates the Goodman Psychological Services Center. Under the direction of Dr. Cristina Rivera and Dr. Gladys Lorenzo, the Goodman Center provides mental health services to indigent people and to the criminal justice system, as well as offering services on a sliding fee scale based on the patient's ability to pay.

Mr. Speaker, I commend the Caribbean Center for Advanced Studies and the Miami Institute of Psychology for their efforts to understand each of us on our own terms and for trying to help us work together to create a better society for all mankind.

STILL MORE TRUTH ABOUT PRORATIONING

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. SCHEUER. Mr. Speaker, since the House passed the Markey-Scheuer natural gas prorationing amendment to the energy bill last month, we have heard over and over again that State prorationing amendments are not designed to jack up prices. They are only designed to prevent physical waste and protect correlative rights. If that were true then there would be no problem because the amendment does nothing to prevent States from exercising such traditional regulatory powers.

But unfortunately, the motives of those who advocate increased prorationing are not that pure. They are trying to use prorationing to raise the price of gas. Just read the local newspapers from producing States and you will get a good idea what people in the gas patch think the purpose of prorationing is.

From the April 6, 1992 Dallas Morning News:

> At the heart of today's challenge is the price of natural gas * * * Those who favor restricting 'allowables' (prorationing), as the industry refers to monthly production levels, argue that when supplies are reduced, supply and demand will be placed in equilibrium. At that point, one may expect to see a rise in the price of natural gas.

The Dallas Morning News recognized that Texas could raise prices and probably get away with it:

> The sticky wicket here is that not all industry folks are convinced that a reduction in supply will match levels of demand. Texas Independents for Natural Gas argues that if Texas gas supplies are restricted, other gas-producing States, as well as Canada, will fill the void.
>
> Perhaps. That's what makes rationing gas production a risk. But it should not be forgotten that Texas produces approximately 27 percent of the nation's natural gas. Texas, Oklahoma, Louisiana together produce nearly 50 percent of the nation's natural gas. And Oklahoma Gov. David Walters and the Oklahoma Legislature have approved a reduction in the State's gas output. Louisiana is considering a reduction provision.

The March 25, 1992 issue of the Fort Worth Morning News had an editorial on prorationing which stated. "The Railroad Commission is considering a proposal to limit production of natural gas in Texas to help bolster prices." Not much ambiguity there. Prorationing proponents aren't out there to protect correlative rights; they want to jack up the price.

The New Orleans Times Picayune wrote in its March 22, 1992 issue, "Now some producers want State governments to limit production to raise prices. It sounds like something on the order of an OPEC for natural gas." Exactly. On March 24, 1992 the Houston Chronicle reported, "Thus comes the proposal to reduce production 'allowables' set by the Texas Railroad Commission. Proposals known as Rule 29 and the Interim measures, aimed at decreasing the State's natural gas output, are before the commission. The clear hope is that by tightening supplies and forcing up prices the industry will be rescued." The article added, "The idea of reducing production in the hopes of driving up prices has an undeniable populist appeal."

Prorationing supporters from producing States continue to assert that they are not interested in using prorationing to raise prices. If their own local newspapers do not agree with them, why should we?

When the House passed the Markey-Scheuer amendment, it did the right thing.

H.R. 5006, FISCAL YEAR 1993 DEFENSE AUTHORIZATION BILL

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. MORRISON. Mr. Speaker, because I had to leave for my home State of Washington late Thursday, June 4, I was absent for portions of the consideration of the fiscal year 1993 Defense authorization bill. Therefore, I would like to share my views now on that legislation.

As Members of Congress, we have an important mission: How will we respond to a dramatically changed security threat? We asked ourselves this question as the Berlin Wall fell. We asked ourselves this question when the Soviet Union dissolved. And we asked ourselves this question as Saddam Hussein conceded defeat in the aftermath of Desert Storm.

I have always supported a strong national defense, one which could overwhelm any opposition or threat which might arise. But the level of necessary spending must be set according to a grounded, threat-based approach. Those of us who supported much of the defense buildup in the early 1980's were responding to the legitimate military dangers posed by the Soviet Union and Warsaw Pact. But today, I can continue to be a supporter of a strong national defense and at the same time recognize that in this changed world, a smaller U.S. force represents just as much military might as our 1980's force levels, relative to the threat. With this authorization bill, I believe we are beginning to craft a reasonable response to this new and evolving security threat.

For these reasons, after we debated the initial House version of the budget resolution, I joined four of my Republican colleagues in voting to double the President's proposed Defense budget cuts over the next 5 years, in support of Panetta B. The American people are clammering for a Congress which will be more responsive to the real world. The level of Defense spending authorized by the Armed Services Committee, at the level of the House-passed budget resolution, is a signal that Congress can meet the challenge, that it can

make the difficult decisions on some of today's major issues.

Again, our Defense spending must be that level needed to meet the security threat to our country and our allies. Our Defense budget cannot be a "jobs" bill, though we must recognize the employment implications of the decisions we make, both within the services and in the civilian sector. Having said that, we can reduce spending without pulling the rug out from under those who won the cold war for us. Chairman ASPIN has identified necessary cuts which can be made outside the personnel accounts, in such areas as excess inventories, overseas basing costs, and slower weapons acquisition. In addition, our colleague in the other body, Senator NUNN, has crafted an intelligent package of incentives and benefits to encourage folks to leave the military early, to ease the burden on those who wish to stay. Finally, this House bill will contain $1 billion in economic conversion funding, to assist those in both the military and civilian sectors who might be dislocated as a result of the cuts we make. Investing in training and conversion for these folks today saves us a great deal of money tomorrow.

On a more specific note, I have mixed feelings about finishing the B–2 fleet at 20 planes. On the one hand, any time a diminished threat means we no longer need to procure a new weapon, a great victory has been won. The B–2's original mission of taking out Soviet mobile targets during a nuclear conflict is obsolete. At the same time, it is a shame that we won't be able to field a fully realized fleet of the most technologically advanced plane in the sky. This is one of those difficult decisions which confront us, and I believe the Armed Services Committee has found the proper balance. The 20 planes will allow us to stay on top of technology advances without committing unnecessary resources to a plane whose original mission has disappeared.

In short, I am pleased to see the House adopt a defense authorization bill which responds in a far-sighted, responsible manner to the evolving world security situation.

FESTA ITALIANA COMES TO NEW JERSEY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. PALLONE. Mr. Speaker, on Saturday, June 13, 1992, the Garden State Arts Center in Holmdel, NJ, will be the site of the 22d annual Festa Italiana. This colorful, informative, and fun-filled event attracts thousands of people from all over New Jersey and the New York metropolitan area, and I will be proud to be one of those in attendance.

The theme of this year's event is the 500th anniversary of Christopher Columbus' arrival in the New World. The discovery made by this son of Italy in the year 1492 is clearly one of the most important events in human history. This sailor from Genoa had that rare combination of vision and courage to make possible the voyage that completely altered the Western concept of the world. People of Italian descent are justifiably proud that this historical giant emerged from the land of Italy.

Mr. Speaker, being an Italian-American myself, I know only too well the persistence of negative stereotypes that continue to plague people of Italian descent. It saddens me that the brilliant accomplishments of Italians, dating back for centuries, are too often overlooked. Meanwhile, ugly images continue to shape many people's idea of the Italian nation and culture. Italians have played a tremendous role in shaping and advancing civilization—on both sides of the Atlantic.

Events like this weekend's Festa Italiana hold the promise of increasing public awareness of the positive aspects of the Italian legacy, including major advancements in the arts and sciences, continued leadership in the world movement toward democracy, and a spirit of hospitality, generosity, and a unique love of life. I hope that Italian-Americans will come to the Festa to rediscover an important part of their identity, and I hope non-Italians will turn out to learn about and enjoy our traditions and way of life.

Saturday's event is being organized by volunteers from all over New Jersey. The chairman of the event is Mr. Anthony Lordi, Jr., of Linden, NJ. For all their hard work, I salute Mr. Lordi and his dedicated corps of volunteers.

In addition to performances and exhibits about traditional and contemporary Italian culture, Saturday's Festa will include several stars of the entertainment world, including Jerry Vale, Mary Mancini, John Pizzi, and New Jersey's own Uncle Floyd Vivino.

Arriverderci, e viva gli Italiani.

CIVILIAN MAILING PRIVILEGES BILL

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. HAYES of Illinois. Mr. Speaker, at the request of the Department of Defense, I am introducing legislation to permit essential civilians supporting military operations, in an area overseas designated by the President, to mail at no cost personal letters or recorded communications.

The bill would grant civilians who are essential to the support of military operations overseas the same free mailing privileges authorized for military service members. It is specifically aimed at essential civilian personnel who are both authorized to use the Military Postal Service and who are working in support of military operations. Currently, they are not eligible to receive the free mailing privileges granted to the service members.

The administration supports this bill and the Postal Service, which will be reimbursed for all costs, has no objections.

I urge my colleagues to cosponsor this legislation.

TRIBUTE TO RITA WEINGARTEN

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mrs. LOWEY of New York. Mr. Speaker, this evening the Westchester Chapter of Women in Communications is honoring a remarkable woman, Rita Weingarten, with their Matrix Award. Rita has been a leader in civic and corporate affairs and an inspiration and role model to many women as they strive to break the glass ceiling.

Rita has been instrumental in the growth of the Westchester Chapter of Women in Communications. She has served the group in many capacities, including vice president for programs, vice president for professional development, and as president.

Rita is an innovative leader who has worked to bring people and community organizations together in pursuit of common goals. Her work toward the formation of the Westchester Corporate Volunteer Council has provided young people with important work experience and nonprofit groups with critical assistance. That help is particularly important now as difficult economic times make entering the job force even more difficult.

Even while pursuing a busy career in governmental and public affairs, Rita always finds the time to take on additional responsibilities, serving our community as chair of the corporate community jobs project, and, in the past, as president of the Volunteer Service Bureau, and the Westchester Health Planning Council. Her dedicated work on behalf of the March of Dimes, College Careers, Lend-A-Hand, and the Youth Counseling League, demonstrate her deep commitment to our youth and our community at large. Through her professional career and community service Rita has been more than willing to use her talents and energies to help others fulfill their aspirations.

When something needs to be done, Rita Weingarten is one person to whom we can turn in confidence. Indeed, she knows how to get results, and she has truly made a difference for many in our community and beyond. Rita also understands the importance of women in our society working to move forward in every sphere. As she has pursued her own career, she has broken barriers. In doing so, she has opened new opportunities for other women. Rita understands that the glass ceiling will only be removed as it is shattered in every sector of our society.

Indeed, Rita Weingarten is a deserving recipient of the Matrix Award. I know it will encourage her to continue her hard work and leadership.

TURKEY'S PRESIDENT VETOES JUDICIAL REFORM LEGISLATION

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. HOYER. Mr. Speaker, I rise today to note with disappointment an apparent setback

in the new Turkish Government's democratization program. An important package of judicial reforms, which had been approved by the Turkish Parliament on May 21, was vetoed yesterday by President Turgut Ozal. The amendments to the Penal Proceedings Act, which had been debated since the government of Suleyman Demirel was installed last November, were a key element of a much heralded "democratization package."

The reforms addressed numerous problem areas often cited by human rights observers as obstacles to Turkey's continued democratic development. The proposed measures included: a shortening of pretrial detention periods to meet international standards; permitting the presence of lawyers during all periods of detention and providing legal assistance free of charge to needy defendants; reaffirming constitutional prohibitions on the use of torture or other means of coercion during all detention periods, and prohibiting the use of evidence obtained through illegal means.

Mr. Speaker, in explaining the reasons for vetoing the legislation, President Ozal cited unacceptable dangers posed by alleged terrorists freed because of shortened permissible detention periods. The real and serious terrorist threat in Turkey cannot be discounted, yet human rights reforms and the fair treatment of all criminal defendants should not be made contingent upon the cessation of terrorist activity. While all nations have a right, indeed a duty, to protect the security of their citizens and the inviolability of their borders, they are also obligated to protect the human rights and fundamental freedoms of all their citizens. A difficult balance is required, but I believe that a nation must come down on the side of protecting individual freedoms.

Mr. Speaker, I wish to take this opportunity also to commend the members of the Turkish Grand National Assembly for their efforts in crafting this farsighted, progressive, and greatly needed legislation. Unfortunately, the fate of the judicial reform package remains uncertain. The legislation will now be sent back to the Parliament, where it will either be amended or resubmitted to President Ozal in its present form. If resubmitted without changes, the President, under terms of the Turkish Constitution, will not be able to exercise his veto a second time.

Mr. Speaker, it is the hope of all who support the democratic State of Turkey that the much needed reforms as outlined in the legislation be adopted as soon as possible. Anything less would appear to represent a diminished effort by the Government of Turkey to fulfill commitments undertaken in the Helsinki process and other international human rights documents.

"BONANZAS" WOULD BE A MISTAKE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. JACOBS. Mr. Speaker, when one thinks of Social Security, one should automatically think of four names, Roosevelt, Cohen, Myers, and Ball.

This excellently eloquent article was written by Bob Myers and Bob Ball, two of the pioneers of the financial fortress which we call Social Security.

"BONANZAS" WOULD BE A MISTAKE

(By Robert M. Ball and Robert J. Myers)

In the guise of providing "justice" to a group of retired persons who are already receiving the equitable and fair amount of Social Security benefits that Congress intended, we may be about to witness a giveaway that will match anything resulting from HUD scandals and the S&L mess.

These retirees call themselves "notch babies."

Originally, they consisted of individuals born in 1917–21. But lately, proposals have been made to expand their ranks to include people born in 1922–26. The "notch babies" claim that they have been cheated by the government out of rightfully earned Social Security benefits. (Of course, not everyone born during those years supports the demand of the "notch babies"; in fact, quite the opposite may be true.) But, are these demands fair? Let's look at the facts.

In 1972, the procedure which Congress adopted to provide automatic cost of living adjustments unintentionally resulted in over-indexed benefits under the economic conditions which occurred shortly thereafter. This meant that unless changes were made, in the long run some people would have been eligible for far higher benefits than have ever been intended (some, for example, would have been eligible for benefits when they retired that would have been higher than the earnings on which their benefits were based.) Under those provisions, the Social Security trust fund would have been completely exhausted in a few decades.

In 1977, Congress decided to remedy its mistake. Rather than reducing benefits for those already retired, the lawmakers developed a plan to gradually lower the unintentionally high benefits for those retiring in the future. The plan included three benefit computation methods: (1) the old method that continues to those born before 1917, (2) the new method that applies to those born in 1917 or thereafter, and (3) a transitional method designed to ease the impact of the change in computation methods for those born in 1917–21. Persons born during that five-year period can have their benefits calculated using the new method and the transitional method and they receive whichever amount is higher, (in fact, had it not been for the transitional method, many individuals born in 1917–21 would be receiving lower benefits than they are today.)

Despite this, some retirees born during those five years, 1917–21, who did not retire at age 62, but rather worked well beyond them, have complained bitterly about what they call the "notch": a situation in which their Social Security benefits may be lower than those of individuals with comparable earnings records who were born in 1910–16 (and who might be called "bonanza babies" because they are receiving higher benefits than Congress intended.)

Never mind that the "notch babies" are getting the equitable, actuarially fair benefits the Congress intended and are receiving benefits computed in the same way as all those who come after. Instead they are demanding that their benefits be raised so that they can also be "bonanza babies."

To make matters worse, some groups purporting to represent these individuals have sought to expand the definition of "notch babies" to include those born 1922–26. They argue that the proposed "correction" of benefits for those born in 1917–21 would create a new "notch" for those born during the following five-year period. Of course, this strategy would also double the number of potential contributors to the group seeking "justice" for them.

What's the bottom line? Even a so-called "watered down" proposal now before Congress to raise benefits for "notch babies" would cost the Social Security trust funds an estimated $324 billion, including the loss of interest on moneys needed to pay the additional benefits. Clearly, the current Social Security financing plan—crafted in 1983 after months of negotiations and quite successful to date—does not provide for this or any other major new expenditure.

Congress made a mistake in 1972 resulting in windfalls for those retirees born shortly before those now complaining. Nearly 20 years later, it would only compound the error by greatly expanding the number of people who would receive such "bonanzas."

(Robert M. Ball was Commissioner of Social Security from 1962 to 1973. Robert J. Myers was Chief Actuary of the Social Security Administration from 1947 to 1982. Both served with the President's National Commission on Social Security Reform in 1982 and 1983.)

JOHN HALL LEADS BEACON COUNCIL'S MINORITY BUSINESS PROGRAM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize John Hall, who recently was featured in the Miami Herald after becoming the vice president of Minority Business and Economic Development for Miami's Beacon Council. The article, "Man who 'makes things happen' leads Beacon's minority program" by Charles Rabin describes how Mr. Hall's background prepared him for this new challenge:

John Hall has been named vice president of Minority Business and Economic Development for Miami's Beacon Council.

"Minorities, specifically blacks, must improve their skill level," Hall said. "There must be an educational and training link. They must do better."

In his new job, Hall will try to establish closer working relations between minorities and the business and economic community. "Frankly, we're still defining the role the department will play," he said.

Upon his appointment last month, Hall took a leave of absence from his own company, Urban Development Corp. of Greater Miami, to work full-time with the Beacon Council. Urban Development works on planning with Greater Miami Neighborhoods and Tools for Change, nonprofit organizations that exist to help Dade's underprivileged.

Beacon Council President John C. Anderson said he selected Hall because he "makes things happen."

"I clearly recruited John Hall," he said. "I quietly began talking with black community leaders and John's name kept popping up."

COMMUNITY SERVICE

The appointment is one more step by Hall along a road of community service.

While an undergraduate at Howard University in Washington, Hall spent time working

for Sens. Mike Monroney of Oklahoma and Thomas Eagleton of Missouri.

"I started as an office boy with Monroney and ended up writing speeches and running his campaign," Hall said.

He worked for Eagleton in the same capacity during his run for the vice presidency with George McGovern, until Eagleton was asked to step down after public disclosure of his psychiatric treatment.

After Howard, Hall graduated from the Harvard Business School in 1971. He went directly into minority business development, serving the National Council for Equal Business Opportunity in Washington for two years.

He joined Mark Battles Associates in 1973, a firm that specialized in applied government research, after the company agreed to give him controlling interest if he could turn its fortunes around. He stayed there for 12 years, closed shop and moved to Miami in 1985.

WATSON ISLAND PROJECTS

That year Hall was recruited by Miami Marine Exposition Inc., to assist in projects planned for Watson Island. But three months later he left to start his own firm.

"He's a people person," Anderson said. "He communicates complex issues very easily, and he's got an extremely strong background."

Hall, 46, who is married and has three children, likes Florida's "ups and downs."

"My most defined goal is the employment of minorities with little education; it's one of the biggest problems in America," he said. "I would like to facilitate putting a major dent in the number of nonworking minority, specifically blacks, in Dade County."

I am happy to pay tribute to Mr. Hall by reprinting this article. His extensive experience and commitment will be a major asset in the Beacon Council's war on unemployment.

TELLING THE TRUTH ABOUT PALAU

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. DE LUGO. Mr. Speaker, last week, the United Nations Trusteeship Council completed its regular annual meeting on the territory that the United States is responsible for administering on behalf of the United Nations: the western Pacific islands of Palau.

Our distinguished colleague from California, GEORGE MILLER, and I were very disappointed by the written report that the executive branch submitted to the Council on how our Nation discharged its responsibilities regarding Palau in 1991. It failed to report realities that were inconsistent with the administration's policy goals.

The most egregious example of this was found in its selective reporting of our primary trusteeship obligation: developing the territory into a self-governing status in accordance with the wishes of its people. Mr. MILLER, as chairman of the full Interior and Insular Affairs Committee, and I, as chairman of the Insular and International Affairs Subcommittee pointed out the report's deficiencies in this regard to the Secretary of State in a letter that I will include in the RECORD with this statement.

In our letter, Chairman MILLER and I also objected to the administration's efforts to pressure Palau into approving a compact of free association that the United States has approved through legislation that we sponsored. The administration has been applying this pressure in a number of ways, including repeatedly suggesting that independence—which most Palauans do not seem to want—is the only alternative to approving the compact as it has already been approved by the United States.

In fact, there are other alternatives, including working out modifications to the compact, as Palau's leaders have proposed and as the bipartisan leadership of the Interior and Insular Affairs Committee has recommended. Trying to limit the options, as the administration has, does a disservice to our Nation's commitment of self-determination in Palau. It may also prove to be counterproductive in terms of finally resolving the future political status of the islands.

The unfairness of the administration's approach—particulary because tiny Palau has almost no power in comparison to our great Nation's almost total power—was very clearly explained in an editorial in the Pacific Daily News that commented on the letter that Chairman MILLER and I sent to Secretary Baker on this matter. I will also include this editorial in the RECORD.

In contrast to the administration's sanitized report on the situation in Palau, the territory's Minister of State more accurately described the situation in his address to the Trusteeship Council: That he did so comes as no surprise because Minister Santos Olikong was one of the leaders of the successful fight against political intimidation and corruption in the islands. He defied physical attack and first made many of us in this House aware of problems of Palau, which caused us to insist that these problems be addressed. I will also include in the RECORD excerpts from his statement that are related to the status issue:

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS,
Washington, DC, June 1, 1992.

Hon. JAMES A. BAKER III,
Secretary of State,
Washington, DC.

DEAR MR. SECRETARY: We are appalled by the inadequate and inaccurate information on political advancement contained in the fiscal year 1991 report to the United Nations on the administration of the Territory of the Pacific Islands.

A total of only about one page in this 190 page report is devoted to how our nation discharged its primary trusteeship obligation: developing the islands of Palau into a self-governing status in accordance with the freely expressed wishes of its people. And this scant treatment is deficient and misleading.

The following statements, which represent most of what was reported on this preeminent responsibility, require correction.

Palau's executive branch "emphasized that free association continued to be the status of choice for the people." (p. 53)

In fact, Palau's executive and legislative leadership emphasized many times that, while they still prefer free association, they believe the proposed compact for it (which Palau has not approved in seven referenda) will not be approved by their people "as is."

"No progress towards resolution of the political status situation was made." (p. 53)

In fact, Palau's leaders agreed upon modification to the compact that they believed would enable the future status to be resolved.

The United States "will continue to provide whatever assistance and counsel is necessary and requested in order that the people of Palau may resolve their political status as expeditiously as possible." (p. 95)

In fact, the Administration has consistently declined Palau's repeated requests to try to work out compact modifications that its united leaders have said are necessary.

The United States prefers the compact of free association approved by the Congress in 1986 "but is prepared to consider independence." (p. 97)

In fact, the 1986 law did not authorize the compact to be implemented. Instead, this authority was granted by a 1989 law that also effectively modified the compact. Further, as the primary sponsors of that law, we must remind you that the approval was made subject to Palau's actual approval of the compact—which has still not occurred. This approval was granted because, even though the compact had not been actually approved, the compact had been supported by the majority of Palau's people . . . and not because we "preferred" it.

Our commitment has been the same as that which the United States assumed in entering into the Trusteeship Agreement: to support the political development of Palau based on the self-determination of its people. As chairmen of the committee and subcommittee of the House with jurisdiction over trust territory matters, we would consider whatever self-governing status they sought. The Administration's repeated suggestions of independence—which they do not seem to want—as the alternative to the compact is a thinly-veiled threat unbecoming of a great nation.

Finally on this matter, we note that the report does make some reference to the efforts of Palau's leaders to have the compact modified by noting that they met with Administration officials and appeared before the Subcommittee on Insular and International Affairs. But the explanations of their purpose—"to discuss the possibility of reopening a dialogue on modifying the Compact . . . to discuss a number of issues of vital concern . . . including political status . . . [and to make proposals] to resolve the impasse on political status" (p. 8) really do not explain their position.

Additionally, the report also does not explain the efforts of Palau and the Congress to prevent the Department of the Interior from dictating Palau's budget contrary to Palau's constitutional processes and it glosses over other problems facing Palau.

One of our nation's greatest strengths is our commitment to the truth. We do not need to mask it as totalitarian states do.

In closing, we want to recognize that Ambassador Tahir-Kheli's statement in the U.N. Trusteeship Council last week was more forthcoming than the report was on the status issue, although the statement erroneously suggested congressional acceptance of Administration views. We also recognize that the Department of State is not ultimately responsible for the report's deficiencies because the material for it was furnished by the Interior Department, which is fully responsible under law for the administration of the trust territory. However, since the report was transmitted by the State Department, we strongly urge that you have its incomplete and misleading statements corrected.

Sincerely,

RON DE LUGO.

Chairman, Subcommittee on Insular and International Affairs.

GEORGE MILLER,
Chairman.

[From the Pacific Daily News, June 5, 1992]

GIVE HELP, RESPECT IN PALAU'S QUEST

We agree with U.S. Rep. George Miller and Congress Del. Ron de Lugo, the State Department has been bullying Palau and it has managed to get the United Nations to go along with the act. In an embarrassing display of power, especially in the last few years, the U.S. has managed to let Palau know that it does not respect the wishes of Palau's people.

Palauans have adopted a constitution, but demands from the United States concerning certain measures in the document have caused problems. Palau's president says he's fed up with Palauans being blamed for stalemate. So are we. If the United States would accept the constitution as a mandate of the Palauan people, this hullabaloo would probably not be taking place.

Let's say Palau doesn't like the United States constitution's part about the right to bear arms. Palau harps on this point for a decade and demands the U.S. become gun free like Palau. Palau loans some money, not much mind you, to anti-gun activists in the states. The activists manage to get some referendums placed on some ballots over the years, but no one in the U.S. can reach a vote that would override the Constitution. The United States government, of course, ignores Palau. The Constitution is a document that is a mandate of its citizens guaranteeing certain rights that Americans feel are important for existence as a society. It certainly isn't going to let a bunch of islanders tell it what to do. But Palau isn't finished. It takes its case to the United Nations, says it has given the U.S. many chances to see the light and now wants action.

So the U.N., believing Palau is being totally honest and is disclosing all, tells the U.S. to ignore its people, drop the constitutional right to bear arms or it will see that the union is dissolved and each state is forced to be independent.

This scenario is improbable and impossible, because Palau wields little power on the world scene. But reversing roles, this is what is happening to Palau now.

The congressmen said the U.S. commitment should be "to support the political development of Palau based on the self-determination of its people." They're right.

If the Palauan people feel strongly enough about the provisions in their constitution, they should stick by their guns and go for independence. But what bothers us is that the U.S. hasn't left Palau in a good position to do this. It hasn't returned the country to its level of self-sufficiency that it enjoyed before the war, thus putting Palau in a terrible predicament.

The July 13 vote is pivotal to settling the hard feelings brought on by this stalemate so Palau can perserve.

OPENING STATEMENT BY HON. SANTOS OLIKONG

Mr. President and distinguished Members of the United Nations Trusteeship Council, the termination of the last trusteeship on Earth must be the goal and the purpose of this 1992 Council Session. Together let us review the events of the last year and address the prevailing issues preventing the dissolution of the trusteeship and devise a plan of its eventual termination, and take bold and decisive steps to achieve Palau's goal of true self rule . . .

Last year, we reported the formation of a working group to identify and propose to the United States modifications to the compact in the context of present realities and the changing world order. Palau suggested the removal of nuclear provisions from the Compact, but was advised right away that this was not acceptable; it sought a shorter term of the Free Association relationship and redesignation of land areas which the United States could commandeer for military purposes. These proposed Compact modifications were formally relayed to U.S. Ambassador James Wilkinson, who led the delegation of the Administering Authority in your last two annual sessions, during his two visits to Palau to hear our concerns and seek common grounds with us. They were also officially transmitted in writing to the United States Government by the Palauan political leadership last October 1991. Unfortunately, on April 7, 1992, the United States Department of State responded by summarily rejecting all the proposed modifications. And while I understand that the United States has concerns of its own, we cannot figure out why it took the Administering Authority nearly a year just to say "No" in the end.

Palau continues to seek ways to resolve the political status issue. Shortly after the Visiting Mission left, a citizens' petition to allow ratification of the Compact by a simple majority vote was presented to the government. That petition has been verified by our Election Commission to bear valid signatures of more than 25% of our registered voters as required by our Constitution for any popular initiative to be effective. Upon its receipt, President Etpison formally submitted a legislative proposal to our National Congress designed to provide for a Constitutional Amendment Referendum as requested by the Petition. But since the proposed bill did not get enacted by the Congress in time to insure a vote within the 90-day period specified in the Petition, the President has set July 13, 1992 as the referendum date. President Etpison and other leaders of Palau had hoped for a congressional act calling for a referendum to amend the Constitution. However, all interests appear to agree that the Petition, through executive order, must be placed before the voters, to be accepted or rejected in a fair and open election, as the voters decide.

I cannot predict now what the outcome of that vote will be. Absent modifications in the Compact which Palau's leadership had hoped to obtain from the Administering Authority, the electorate may refuse to change the 75% requirement for a Compact approval which had frustrated seven previous plebiscites. Even if the Petition passes, we cannot be certain that our voters will subsequently approve the present version of the Compact, unless some better assurances come about from the United States relating to military land use rights and the term of the agreement. I sincerely hope, however, that within the next one year, the United States and Palau will come to terms on their future relations and that this Council can then terminate the World's remaining trust territory.

President Etpison, who staunchly supports the Compact of Free Association with the proposed modifications, has declared that the Eight Referendum on the Compact will be the last . . . Should the Palauan voters in the polls reject the Compact of Free Association, with or without our suggested changes, then Palau and its people will have no other choice but must explore an alternate status arrangement.

We are determined to put an honorable end to the trusteeship in the first year of the next administration. This we hope to work out with the blessings of the Divine Providence, with your helping hand, and with the goodwill of the United States of America. This we hope to achieve in the spirit of peace, harmony and understanding.

KOM KMAL MESULAND.

DOES OUR CURRENT MEDICAID LAW MAKE SENSE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. KOSTMAYER. Mr. Speaker, under current law, Federal funds may not be used for Medicaid-eligible patients to get mental health services in private, freestanding psychiatric hospitals. If, however, the identical services are provided in a psychiatric facility affiliated with a hospital Federal funds may be used. Given that both the services and the reimbursements are identical, this rule appears to be arbitrary and unfair.

The State of Pennsylvania has chosen to provide Medicaid reimbursement for private, freestanding psychiatric hospitals using 100 percent State funds. Using the experience in Pennsylvania, we can now determine the appropriateness of providing Medicaid funding for private, freestanding psychiatric hospitals.

Today, I am introducing legislation to determine the feasibility and desirability of providing such reimbursement. This legislation authorizes the Secretary of Health and Human Services to conduct a study analyzing any variation in utilization, costs, and quality of care between private, freestanding hospitals and those affiliated with hospitals.

We in Congress need to understand the implications of Federal rules and regulations currently in place. This study will help Congress determine whether the provision of the Medicaid law prohibiting payments to private, freestanding psychiatric hospitals makes sense, or if following the Pennsylvania example, changes in reimbursement can occur without undermining patient care or increasing costs to the Federal Government.

I encourage all of my colleagues to cosponsor this important legislation and learn about the implications of our Medicare policy.

TRIBUTE TO MRS. FRANCES MORTEN FROELICHER

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. CARDIN. Mr. Speaker, I rise today to recognize and pay tribute to Mrs. Frances Morton Froelicher—teacher, citizen city planner, and community organizer. Mrs. Froelicher has been a catalyst for change in the Baltimore and Maryland communities. A "Jenny Appleseed" of ideas, her greatest talent has been in bringing new ideas from the fringe into the mainstream, cajoling the system into embracing change.

Mrs. Froelicher's success in the crusade for better housing and planning in Baltimore was

characterized by her founding of the Citizens Planning and Housing Association in 1941 and her tenure as its executive director from 1945 to 1969. Unafraid to promote change, she pushed through a series of reforms that made CPHA's one of the most successful citizens group in Baltimore.

After her retirement from the CPHA in 1970, Mrs. Froelicher set her signs on improving the environment. The Air Quality Division of the Maryland State Department of Health and Mental Hygiene asked Mrs. Froelicher to organize a coalition to support air quality standards. She created the Better Air Coalition that was formed with more than 50 participating groups. Her efforts resulted in adopting strict standards aimed at improving air quality.

Mrs. Froelicher's continuing interest in the environment also led her to found the Baltimore Environmental Center in 1971, to organize Pennsylvania's South Mountain Audubon, to chair the Water Pollution Committee of the Monroe County, FL, League of Women Voters, and to organize and preside over the Strawberry Hill Foundation.

I would like my colleagues to join with me in saluting Frances Morton Froelicher, whose innovative goals combined with intense dedication and altruism, have helped improve all our lives.

TRIBUTE TO THE NATIONAL ASSOCIATION OF HEALTH UNIT COORDINATORS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. GILMAN. Mr. Speaker, it is an honor and a distinct pleasure for me to once again commend and congratulate Ms. Dorothy Barnum for her hard-working dedication and unrelenting effort in promoting the ideals and goals of the Mid-Hudson Valley Chapter of National Association of Health Unit Coordinators in the 22d Congressional District of New York.

Celebrating their 12th anniversary in August of this year, the National Association of Health Unit Coordinators, making rapid advancements in medicine and encouraging the growth and expansion of health unit coordinators, continues to strive for excellence by adopting a Code of Ethics and Standards of Practice and carrying on education programs that assist health unit coordinators in remaining knowledgeable with the ever advancing technology of the health care field.

In the past 11 years, the association has generated a number of nationally certified programs as well as instituted standards of practice and accreditation. Mr. Speaker, it is vitally important for the public to be informed of the valuable contributions that National Association of Health Unit Coordinators provide in the health care system and the commitment to excellence and professionalism that they are constantly struggling to achieve.

Accordingly, I invite my colleagues to join today in congratulating Ms. Barnum and the Mid-Hudson Valley Chapter on their third anniversary as well as the National Association of Health Unit Coordinators as they celebrate their path of excellence and their founding on August 23, 1992.

CONGRESSMAN ZIMMER SALUTES JEWISH HERITAGE FESTIVAL

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. ZIMMER. Mr. Speaker, New Jersey is a state rich in cultural diversity. Our proximity to Ellis Island made New Jersey a gateway into America for immigrants since before the turn of century. Now they fly over the Statue of Liberty and land at Newark International Airport.

This week will see a particularly meaningful example of my home State's role in America's tradition as a great melting pot when New Jersey's Jewish Heritage Festival begins. Thanks to the spread of freedom and human rights around the world, this year's festival will be attended by Soviet, Syrian, and Ethiopian Jews.

The festival is a decades-old celebration of the unique Jewish culture. That these immigrants can attend such a celebration and are now free to practice their religion—as they never could in the Soviet Union, Syria, and Ethiopia—serves to remind us all of how lucky we are to live in the United States.

Mr. Speaker, I want to praise the organizers of this festival for highlighting their won cultural heritage which is thousands of years old and still very much an integral part of the diverse cultural fabric of our Nation.

TRIBUTE TO BERNARD POITIER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to call my colleagues' attention to the outstanding service rendered to the community of Miami, and the young people of Florida by Bernard Poitier. A man who saw his dream of going into business for himself come true in 1970, Bernard Poitier returns to his community what he has earned from it.

Once his funeral home was established, Bernard Poitier became pastor of his own church, and began working hard to make an impact on his community. He targeted students as the place to start, and is serving as a mentor for students, and supports student activities and sporting events.

The Miami Herald published an article about this outstanding citizen, which I would like to include in the RECORD:

LONGTIME FUNERAL DIRECTOR GIVES BACK TO COMMUNITY

(By Olympia Duhart)

When Bernard Poitier was a little boy, he was on a constant quest for dead animals. Dogs, cats, rats, mice. He even scooped up road kills when he found them.

Poitier buried the animals. He would convert the back yard of his Liberty City home into a funeral parlor, pour bleach over the carcasses to "embalm" the animals, and recruit his sisters to serve as mourners. Sometimes, he'd even slip a dog into one of his mother's dresses before he said the last rites and lowered it into the ground.

"I always knew I wanted to run a funeral home," said Poitier, who owns Poitier Funeral Home in Liberty City. "That's been my dream since day one."

On Christmas Day 1970, Poitier saw his dream realized. He opened his own funeral parlor on the corner of Northwest 62nd Street and 23rd Avenue. Twenty-two years later, the building still stands on the same corner.

The business has grown to include a casket business, a church, and a business office. A new parlor is slated to open next month. Poitier, who ran away from his first encounter with a dead human body, also has changed. He became pastor of his own church five years ago, is considering running for county mayor and is working hard to make an impact in his community.

He has targeted students as his top priority. A former teacher, Poitier serves as a mentor for students at several Liberty City schools, sponsoring hot dog parties and buying trophies. He was recently recognized for his efforts when the Miami Commission named him one of five outstanding citizens of the year.

"I think it's a great idea," said Jeanette Goa, principal of Holmes Elementary. "If we call him or leave a message for him to come, he will stop and come right on over and talk with us."

Goa said Poitier takes kids to his funeral home to "shadow" him as he works, encourages kids to open bank accounts and sponsors class parties. Poitier also sponsors study sessions for students on Tuesday afternoon at his church, St. Luke-Cousin Memorial AME Church.

"You have to remember where you come from," said Poitier, who grew up on Liberty City. "I firmly believe that if you do good toward people, good things will come back to you."

Mr. Speaker, I commend Bernard Poitier for his outstanding community service and his commitment to the youth of Miami.

TRIBUTE TO ALVA GENE FOWLER

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. CONDIT. Mr. Speaker, I rise today to honor Commander Alva Gene Fowler of the Ceres, CA, Department of Public Safety who will be retiring on June 30, 1992, after 22 years of dedicated service.

Gene Fowler entered local law enforcement when he became a reserve deputy sheriff for the Stanislaus County Sheriff's Department in January 1970. In October of 1970, he was hired as a full-time police officer with the city of Ceres. On September 11, 1973, Mr. Fowler was promoted to detective. In 1975, he was promoted to sergeant. In June 1982, he was promoted to the position of detective sergeant. In 1983, Gene was made police commander in which he had the responsibility of supervising the services and police divisions for the public safety department. He has served in that position for nearly 9 years.

I had the pleasure of serving with Gene Fowler while I was a city councilman and

mayor of Ceres. His dedication to the department and the people he served will be sorely missed. I would like to wish Gene and his wife, Ella, well as they are able to enjoy life a little more after his retirement.

TRIBUTE TO THE NATIONAL ALLIANCE OF POSTAL AND FEDERAL EMPLOYEES

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. GREEN of New York. Mr. Speaker, I rise today to honor the National Alliance of Postal and Federal Employees, the oldest black-led labor union in the Nation, which will celebrate its 79th anniversary this October. In celebration of that landmark anniversary, in August, the union will hold a 40th Biennial National Convention in New York City.

I should like to thank Noel V.S. Murrain, the President of the Alliance, and Mr. James M. McGee, National President of the National Alliance of Postal and Federal Employees for all of their hard work with the organization and their undying dedication to making the labor union a success. Further, I should like to thank the Chairman of the 40th Biennial National Convention Committee, Wendy J. Kelly-Carter for her efforts in organizing this convention.

I should also like to congratulate the President and the Vice President of the Alliance for their organization of the Nation's most respected black-led labor union. As a result of their efforts, this union gives black employees an opportunity to benefit within their union.

I join my colleagues in extending the best to all of the members of the National Alliance of Postal and Federal Employees.

TRIBUTE TO JAMES SHIMEL

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. TRAXLER. Mr. Speaker, I'd like to take this opportunity to salute a distinguished gentleman, James Shimel, from my hometown of Bay City, MI. James Shimel received on June 9 the Pathfinders Award, the highest recognition of his support for HIV-positive victims. This award was given to 14 outstanding individuals from across America in recognition of their leadership, achievements and dedication to the fight against HIV/AIDS. A consortium of 18 nationally recognized organizations known as the National Partners presented the Pathfinders Awards to the winners.

As a member of the American Red Cross HIV/AIDS task force in Bay City MI, Mr. Shimel has quietly become a leader in the tri-county areas for increasing HIV/AIDS awareness and prevention. Of particular note is the volunteer time and emotional support he has given to the residents of Hope House, a place which has provided housing to HIV/AIDS infected people who have nowhere to go. The courageous work done by ordinary citizens like James Shimel reminds us how a tragedy like AIDS can produce remarkable human responses.

Regardless of Mr. Shimel's own difficulties with multiple sclerosis, he has put his own health and welfare aside to help others in need. His leadership, courage, and compassion in the fight against AIDS should serve as an inspiration to us all. Please join me in congratulating James Shimel upon receiving the Pathfinders Award and for his courage and leadership in the fight against HIV/AIDS.

THE 20TH ANNUAL JEWISH CULTURAL FESTIVAL

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. PALLONE. Mr. Speaker, on Sunday, June 14, 1992, the Garden State Arts Center in Holmdel, NJ, will be the site of the 20th annual Jewish Cultural Festival. This enjoyable and informative event always attracts thousands of visitors from all over New Jersey and the New York Metropolitan area, and I will be proud to be one of those in attendance.

The theme of this year's festival is a Salute To Israel. Recently, the State of Israel celebrated the 44th anniversary of its independence. During those years, Israel has made unbelievable strides that are the envy of much of the world—even if many other nations still go through the motions of denying Israel's legitimacy. Israel has successfully absorbed wave after wave of new immigrants, from the traumatized survivors of the Holocaust in Europe, to the masses of Sephardic Jews escaping poverty and religious discrimination in Arab lands. More recently, Israel has again astounded the world—and confounded her critics—by providing a new home and a new hope to the long-suffering Jewish communities of the former Soviet Union and Ethiopia. All the while, the Israelis have built up an impressive agricultural and industrial infrastructure, successfully defended their country against hostile neighbors and, most amazing of all, adhered to the principles of democracy.

These days, the America-Israel relation is going through a rather negative period, one that I hope will prove to be a short-lived phase. Questions are being raised about the need for the continued close relationship between our two nations. I say that it would be a big mistake to abandon this alliance, which has been and still is vital to long-term stability and security. The current controversy over United States loan guaranties to Israel is a particularly sad spectacle for friends of Israel to behold. It troubles that much of the controversy is rooted in a simple misunderstanding of what the loan guaranty really means. It is not a $10 billion giveaway to Israel from United States taxpayers. The United States would simply be co-signing loans for one of the World's safest credit risks. In fact, the United States economy stands to benefit, in the short and long term, from new contracts for the hard-pressed American housing industry, and increased exports of raw materials and manufactured goods as the Israeli economy continues to grow and expand. Thus, the loan guaranties truly benefit both of our nations—the true test of the value of any bilateral alliance.

Sadly, the ugly virus of anti-Semitism continues to plague our society, and much of the criticism of Israel seems rooted in this form of irrational hatred. It is important that the leaders of the Jewish community, as well as all people of good will, fight against the hatred and the stereotypes that are targeted at Jewish-American citizens. One way to do this is to highlight the many significant contributions that Jews have made to world culture in general and American society in particular, through events such as this weekend's Cultural Festival. We will probably always have to deal with the malevolent influence of hate mongers striking at the margins of our society. But I am confident that the American people have the will, the courage and the national institutions to keep the hate mongers at the margins while dedicating our Nation to accepting and embracing the diversity that is our greatest strength.

I would particularly like to pay tribute to the chairman of this year's festival, Mr. Martin Hacker of Metuchen, NJ. He and the many volunteers who have worked to organize this year's event have put together a program that includes a wide range of cultural activities, and which will feature the actors Lou Jacobi and Paul Zim and the New Jersey Klesmer Band. We who live in the Central Jersey area are indeed fortunate to have such an event in our region.

TRIBUTE TO SISTER MARY THOMAS ZINKAND, R.S.M.

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. PELOSI. Mr. Speaker, I rise today to pay tribute and give special thanks to Sister Mary Thomas Zinkand, R.S.M. on the occasion of her retirement as president and chief executive officer of Mercy Medical Center, a Catholic, community oriented hospital, in Baltimore, MD. She will be greatly missed for her dedication, compassion, and commitment to helping all peoples. The Mercy Hospital Board of Trustees honored Sister Mary Thomas at a community brunch in Baltimore on Saturday, May 16.

Sister Mary Thomas, a Baltimore native, grew up in Hamilton and studied nursing at the Mercy Hospital School of Nursing and Mount Agnes College. As a graduate nurse in pediatrics at Mercy Hospital, she made the decision to become a nun. She later went on to earn a master's degree in hospital administration from St. Louis University.

Sister Mary Thomas' 35-year tenure at Mercy Hospital is marked by her tremendous compassion for and understanding of the unique needs of the underprivileged and indigent. Throughout her years of service, Sister Mary has not faltered in her commitment to the Mercy community and the people of Baltimore.

In honor of Sister Mary's retirement, Archbishop William H. Keeler awarded her the archdiocesan Medal of Honor. Auxiliary Bishop P. Francis Murphy presided over a special mass in her honor on May 17 at the Basilica of the Assumption where he attributed the compassionate environment at Mercy to Sister Mary Thomas.

Mr. Speaker, Sister Mary Thomas Zinkand's dedication, commitment, and generosity to others will be greatly missed at Mercy. Her life's work is an inspiration which will live on in the hearts of those who have had the good fortune to know her, and will continue to serve as a model of devotion to the community.

TRIBUTE TO THE ART OF GUIDO MENA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to call my colleagues' attention to the remarkable work of Miami artist Guido Mena. Born in Havana, Cuba in 1956, Guido Mena moved to the United States with his family in 1960. He has achieved a level of success in both commercial and fine art which is all the more unusual because he is colorblind.

The Miami Herald published an article about this remarkable artist, titled "Artist with eye for color is colorblind," which I would like to include in the RECORD:

When artist Guido Mena splashed vivid hues across the poster he created for the annual Calle Ocho festival, he captured the festival's exuberance—as well as that of the city.

But, Mena says, few people who see his work realize that he is colorblind. Clearly the condition didn't matter when the Kiwanis Club of Little Havana commissioned Mena to create the 1992 poster for Carnaval Miami.

"Guido is an excellent artist with a great capacity to communicate," said Leslie Pantin, founding president of the club and promotions manager for Carnaval Miami.

Born in Havana in 1956, Mena came to Miami in 1960 with his family. His colorblindness was discovered when he was a student at Coral Park Senior High, where he won several arts awards.

"The diagnosis was a surprise, but it did not change my mind about studying painting," he said.

He went to Pratt Institute in Brooklyn, where he earned a bachelor's degree in art in 1982. He launched his professional career that same year.

"For a time, I worked mainly in black and white," he said. "But then a professor urged me to develop my skills in color work. From that moment on, I developed the tools to have complete control of my palette."

His paintings attest to that control. Bright colors are used to vary images and figures.

"I'm a loner who wants to become totally dedicated to painting," he said. "I don't follow anyone's footsteps, not in my commercial or artistic work. I follow my own instincts."

Mena's most widely distributed commercial assignment was the cover of the 1987–88 Southern Bell telephone directory. Some 2.3 million copies were printed. He also designed the menu cover at Monty's restaurant, an item many tourists keep as a souvenir.

In 1990, Mena broke into the fine arts world with his painting *The Knockout*.

Based on a boxing image, it was one of 52 works selected for a national exhibition of contemporary art organized by the Society of Four Arts of Palm Beach.

"I'm painting a lot now because the experiences of Palm Beach and the poster tell me that people are interested in my work," he said. "Maybe people can identify with my images because they share the reality from which those images emerge."

Mena is preparing a portfolio with samples of his work. He captures the intensity of domino players or the anguish of Cuban rafters at sea. He doesn't limit himself.

"Miami is a special and unique city. There's much to do here," Mena said. "I want my art and my colors to be part of its magic."

Mr. Speaker, I commend Guido Mena for his perserverance in the face of incredible challenge, and his contribution to the richness of our art and culture.

A CONGRESSIONAL SALUTE TO THE SOROPTIMIST INTERNATIONAL OF DOWNEY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. ANDERSON. Mr. Speaker, on Friday, June 12, 1992, the Soroptimist International of Downey will hold its installation of officers ceremony. It is with great pleasure that I rise today to pay tribute to this exceptional organization which will celebrate its 40th anniversary this year.

Soroptimist International was founded October 3, 1921, in Oakland, CA, by a diverse group of professional women. From this humble beginning, Soroptimist International has grown to become the largest classified service organization for executive and professional business women. It lists some 80,000 members from over 3,500 occupations and professions in 82 countries around the world. Membership in this organization is by invitation only and is based on a classification principle which assures a broad spectrum of representation from the economic life of the community.

At the heart of this organization is service. Soroptimists serve their local communities through six programs of service: economic and social development, education, environment, health, human rights/status of women, and international goodwill and understanding. The type of service Soroptimists offer is directly related to their community's needs. They provide shelters for abused women and children, design and implement literacy programs, environmental protection programs, health and drug programs, and hold seminars on career opportunities and money management to name just a few.

On an international scale, Soroptimists have united to bring water to drought plagued countries in Africa and to teach marketable skills to women in the Southwest Pacific, India, and the Philippines. They have provided immediate assistance to earthquake victims in Mexico and continue their support by offering programs on sanitation, nutrition, and education.

In addition to these worthy causes, Soroptimists provide awards and recognition programs in their local communities. These award programs are designed to recognize and support individuals in their quest for upward mobility and the improvement of their life. The training award is given annually to women who are working to improve their economic status through education. The youth citizenship award recognizes outstanding contributions by young people their school, community, country, and world. The making a difference for women program honors individuals who have made notable contributions toward the advancement of women.

Mr. Speaker, the members of Soroptimists are proud to be a part of an organization whose sole purpose is to improve the quality of life for their fellow human beings. They are women at their best helping others to become the best that they can be.

On this most special and deserving occasion, my wife, Lee, joins me in extending this congressional salute to the members of this notable organization. We wish Soroptimist International of Downey and their new officers another 40 memorable years.

THE MURDER OF BOSNIA-HERZEGOVINA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. HOYER. Mr. Speaker, it is very difficult for most Americans, myself included, to imagine the horrific atrocities which are now being carried out against the people of Bosnia-Herzegovina by Serbian President Slobodan Milosevic and his henchmen. We have read press accounts about the indiscriminate killing of thousands of innocent men, women, and children. We have seen the pictures of mortar and artillery rounds crashing down on Sarajevo. Yet it seems almost surreal. How can such cruelty exist in this world?

The following statement, given this week at the CSCE followup meeting in Helsinki by Bosnian Foreign Minister Haris Silajdzic, leaves no doubt that this senseless massacre is indeed taking place. It also calls on the CSCE to rapidly bring into play the process that will lead to peace. I fully support the recommendations of Mr. Silajdzic, and ask that the following statement be placed, in its entirety, in the RECORD.

STATEMENT BY DR. HARIS SILAJDZIC, FOREIGN MINISTER, REPUBLIC OF BOSNIA-HERZEGOVINA

Mr. Chairman, distinguished colleagues, we meet at a perilous time for the people of Bosnia-Herzegovina and for the Conference on Security and Cooperation in Europe.

During the last month since I spoke with you, the situation in Bosnia-Herzegovina has gone from bad to worse. Incessant shelling continues. More than 5,200 persons have died. Some 20,000 have been wounded. And more than one million are homeless.

The war of aggression by Serbia against its neighbors has been unrelenting. Sarajevo,

once the proud host of the 1984 Winter Olympics, has been under heavy artillery assault for two months.

It has been especially heavy in the last 30 hours. This weekend, 30 people were killed and more than 100 injured. Serb forces, ringing Sarajevo, pounded our capital with heavy artillery, rockets and mortars.

The night sky was ablaze with buildings and explosions. Sarajevo's streets are littered with rubble and shattered glass. Hospitals are packed with wounded and mortuaries are full.

Street fighting has erupted in the suburb of Dobrinja, where 40,000 people face imminent starvation and death from the repeated attacks.

Some 400,000 of our citizens are trapped in Sarajevo and fear starvation. United Nations and Red Cross relief convoys have repeatedly been blocked form distributing food and medicine.

The main water reservoir is damaged. There is virtually no water to fight the conflagration. Two major hospitals have been severely damaged. The telephone system is almost totally inoperative.

Last Friday in the town of Ljesevo, 25 people were slaughtered. In Kozarac last week, more than 500 people were killed after a rain of grenades hit the town.

Serbian concentration camps have been set up. More than 1,000 people have been subjected to horrible torture. Families have been separated. Many have been sent to work camps.

We have confirmed that the Yugoslav Army has placed Scud missiles on Mount Vlasic, near Travnik about 150 kilometers from Sarajevo.

New, more deadly 165-mm artillery have been injected into the war by Serbia.

What we know and what you have seen on television are but the tip of the ice berg. Many towns along the border with Serbia have been cut off totally. One can only imagine the horror perpetrated there.

I spoke with President Izetbegovic yesterday. He confirmed the latest details of this onslaught against civilized society. We will have video-tape documentation of these atrocities for CSCE very shortly.

Property damage in the Balkan brutality may reach $100 billion. Entire factories have been stolen. In Mostar, the Soko airplane factory was dismantled and moved to Serbia. Our economy is at a standstill.

The Milosevic Method is clear. The finger prints unmistakable.

It started in Kosova in the late 1980s. Military occupation. Parliament dissolved. Media under strict controls. Purges.

It moved to Slovenia briefly, and then the Croatia 11 months ago. Now Bosnia-Herzegovina is feeling the irrational wrath of this man who has been described by Time magazine as "The Butcher of the Balkans."

The aggression was planned carefully, cunningly, cynically.

The pathetic pattern in Croatia and Bosnia-Harzegovina started with heavy artillery shelling. Murders and massacres followed. Non-Serbs who did not leave were driven out, or shot. Burning, looting, plundering ensued. Population resettlement occurred, as Serbs moved into the homes of Croatians and Bosnians.

This last step is now underway in Sarajevo and elsewhere in my country. Bosnia-Herzegovina has no artillery. We have no rockets. We have no military jets. We face a Yugoslav Army general in charge of the aggression who is part and parcel of the Milosevic war machine. We confront 1,000 paramilitary insurgents from Serbia and Montenegro who will stop at nothing.

The aggressor has boasted about his intention to level Sarajevo. At this point, he is pursuing it with impunity. A year ago, the Yugoslav Army dug it self in to the hills around Sarajevo. An officer was asked why. He answered, "To protect the city from an air attack." From these very positions, the aggressor is now firing on Sarajevo's innocent citizens.

The are playing loosely and freely with people's lives. Not only in my country, but in the entire region. An ecological disaster threatens Central Europe if Yugoslav fighters attack the chemical plant in Tuzla.

The chemical facility stocks 125 times more chlorine than that found at the Union Carbide plant in Bhopal, India, in 1984. The air and artillery attack on Tuzla could lead to a major environmental catastrophe.

To call this as an "ethnic war" is to play into the hands of the aggressors. It can only be described as a barbaric incursion aimed at "ethnic cleansing" and "ethnic purification" by the aggressors. Milosevic and his henchmen seek to annihilate our history in a blatant attempt to kill our sense of identity and belonging, to eradicate our spirit.

History will recount this as a war of "cultural genocide." As in Croatia, Bosnia has witnessed destruction or damage to 122 monuments, mosques, churches, synagogues, historic building and museums.

The aggressor has committed virtually every crime imaginable. Massacre. Torture. Murder. Intimidation. Repression. Oppression. Crimes against humanity. In many instances, these horrors surpass those of the darkest days of World War II.

We do not seek revenge. However, those responsible for these reprehensible actions must be brought to justice. We know who they are. They have no respect for human life. Their prosecution will discourage other potential tyrants.

What kind of people are these? Have they no civility? Do they care anything about human rights? Are they so corrupt that they will kill babies, mothers and fathers with impunity?

The world must answer these questions. And the answers must come soon. Very soon. The foundations of civilized society face assault.

If we do not act now, who will? If we don't have the will, who does?

Respect for human rights. Fundamental freedoms. Equal rights. Self-determination. Territorial integrity. Peaceful settlement of disputes. Inviolability of frontiers. The guiding principles of CSCE are falling prey to the aggressor.

Over the last two years, CSCE and the international community have recognized the threat posed by Serbia to its neighbors.

The Committee of Senior Officials has expressed concern about "the rising tension in Yugoslavia." The Conference has acknowledged the gross violation of human rights and the clear evidence of aggression.

On May 12, in an unprecedented step, the delegation of former Yugoslavia was excluded from participating in decisions related to the crisis until the end of this month.

Last Thursday, NATO foreign ministers gave us a key to rescuing the starving and stopping the carnage. The unprecedented use of NATO troops and equipment for peacekeeping operations in Bosnia-Herzegovina will send a stunning signal to the world that tyrants will not be tolerated, that human life is sacred, that civil rights are sacrosanct.

Today, we urgently appeal to CSCE to rapidly bring into play the process that will lead to peace.

Specifically, a security zone must be established around Sarajevo and escorted relief convoys must be allowed to distribute food and medicine.

The aggressor's military flights over Bosnia-Herzegovina must be prevented.

His artillery must be dismantled, neutralized, or placed under international control.

Our citizens must be permitted to return to their homes and live securely in peace.

There is no reason for inaction. The government of Bosnia-Herzegovina seeks only peace. It is a democracy, committed to human rights and a free market economy. It is only just that peace should be imposed after so many sanctions, so many appeals, so many attempts at dealing with the expansionist policies of the Milosevic regime.

For the 5,200 people who have died, it is too late. For the 20,000 wounded, the damage is done. For the million made homeless, life is a hell. For the thousands of little children waiting for a piece of bread and a cup of water, starvation creeps up.

Each day counts. Each hour counts.

If this assault on civility is allowed, there is not much hope for humanity. If this affront to mankind is sustained, there is not much reason for the Conference on Security and Cooperation in Europe to exist.

Let us try our very best to stop the suffering of the people of Bosnia-Herzegovina.

Let us by our actions prevent despotic regimes, now and in the future, from fomenting their fanaticism.

Let us act now.

BALANCE NEEDED IN ENVIRONMENTAL DISCUSSIONS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. BEREUTER. Mr. Speaker, as leaders from around the world meet in Rio de Janeiro for the Earth summit, the world's attention has appropriately been focused on the current and future threats to the environment. Certainly this is not an issue to be ignored. However, it appears that a disproportionate amount of the focus has been placed on the most dire environmental scenarios that have been offered.

Obviously, great attention needs to be paid to the very real threats posed by environmental neglect and, where appropriate, corrective action should be taken. However, these decisions need to be based on rational facts rather than emotional appeals designed to frighten people into action. The cause of environmental protection is harmed by unsubstantiated claims of impending global disaster. Such an approach tends to obviate other views on the issue and makes it more difficult to engage in serious debate about the situation and the best methods to effect meaningful change.

Unfortunately, it seems that anyone who promotes environmental protection on the basis of facts and evidence rather than emotion is accused of being an enemy of the environment. For that reason, I commend the following excerpts from an article in the June 1, 1992, issue of Newsweek to my colleagues.

This commentary, written by the distinguished economist, Robert J. Samuelson, offers a balanced and often overlooked view of the environmental situation:

THE END IS NOT AT HAND

(By Robert J. Samuelson)

Whoever coined the phrase "save the planet" is a public-relations genius. It conveys the sense of impending catastrophe and high purpose that has wrapped environmentalism in an aura of moral urgency. It also typifies environmentalism's rhetorical excesses, which, in any other context, would be seen as wild exaggeration or simple dishonesty.

Up to a point, our environmental awareness has checked a mindless enthusiasm for unrestrained economic growth. We have sensibly curbed some of growth's harmful side effects. But environmentalism increasingly resembles a holy crusade addicted to hype and ignorant of history. Every environmental ill is depicted as an onrushing calamity that—if not stopped—will end life as we know it.

Take the latest scare: the green-house effect. We're presented with the horrifying specter of a world that incinerates itself. Act now, or sizzle later. Food supplies will wither. Glaciers will melt. Coastal areas will flood. In fact, the probable losses from any greenhouse warming are modest: 1 to 2 percent of our economy's output by the year 2050, estimates economist William Cline. The loss seems even smaller compared with the expected growth of the economy (a doubling) over the same period.

Unfortunately, the impulse of many environmentalists is to vilify and simplify. Critics of environmental restrictions are portrayed as selfish and ignorant creeps. Doomsday scenarios are developed to prove the seriousness of environmental dangers. Cline's recent greenhouse study projected warming 250 years into the future. Guess what, it increases sharply. This is an absurd exercise akin to predicting life in 1992 at the time of the French and Indian War (1754–63).

The rhetorical overkill is not just innocent excess. It clouds our understanding. For starters, it minimizes the great progress that has been made, especially in industrialized countries. In the United States, air and water pollution have dropped dramatically. Since 1960, particulate emissions (soot, cinders) are down by 65 percent. Lead emissions have fallen by 97 percent since 1970. Smog has declined in most cities.

What's also lost is the awkward necessity for choices. Your environmental benefit may be my job. Not every benefit is worth having at any cost. Economists estimate that environmental regulations depress the economy's output by 2.6 to 5 percent, or about $150 billion to $290 billion. (Note: this is larger than the estimated impact of global warming.) For that cost, we've lowered health risks and improved our surroundings. But some gains are small compared with the costs. And some costs are needlessly high because regulations are rigid.

BALANCE

The worst sin of environmental excess is its bias against economic growth. The cure for the immense problems of poor countries usually lies with economic growth. A recent report from the World Bank estimates that more than 1 billion people lack healthy water supplies and sanitary facilities. The result is hundreds of millions of cases of diarrhea annually and the deaths of 3 million children (2 million of which the World Bank judges avoidable). Only by becoming wealthier can countries correct these conditions.

Similarly, wealthier societies have both the desire and the income to clean their air and water. Advanced nations have urban-air-pollution levels only a sixth that of the poorest countries. Finally, economic growth tends to reduce high birthrates, as children survive longer and women escape traditional roles.

Yes, we have environmental problems. Reactors in the former Soviet Union pose safety risks. Economic growth and the environment can be at odds. Growth generates carbon-dioxide emissions and causes more waste. But these problems are not—as environmental rhetoric implies—the main obstacles to sustained development. The biggest hurdle is inept government. Inept government fostered unsafe Soviet reactors. Inept government hampers food production in poor countries by, say, preventing farmers from earning adequate returns on their crops.

By now, everyone is an environmentalist. But the label is increasingly meaningless, because not all environmental problems are equally serious and even the serious ones need to be balanced against other concerns. Environmentalism should hold the hype. It should inform us more and frighten us less.

HONORING MERCEDES PARKS, PRINCIPAL OF AEOLIAN ELEMENTARY SCHOOL—RETIREMENT ON JUNE 30, 1992

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. TORRES. Mr. Speaker, I rise today to recognize a special individual and dedicated public servant, Mrs. Mercedes Parks, principal of Aeolian Elementary School in Whittier, CA. Mrs. Parks is retiring from public education after 38 years of teaching our youth and will be honored at a special awards assembly on Tuesday, June 16, 1992.

Mrs. Parks received her bachelor of arts and masters degrees from Whittier College. She also completed a variety of continuing education coursework at California State University, Los Angeles and Pepperdine University.

Mrs. Parks has dedicated her career to the field of education. She began her tenure with the Los Nietos School District in 1952 as an instructor and speech and language teacher at Rancho Santa Gertrudes School. She served as head teacher, speech specialist and acting assistant principal of Wallace S. Wiggins School from 1975–81. In 1983 she was a summer school teacher for the severely handicapped at Ada S. Nelson School and she also served as a speech specialist from 1981–85. She then moved to Aeolian Elementary School and assumed the position of principal, where she has served since 1985.

She has been an active member of the National Professional Educators' Society [Delta Kappa Gamma], Kiwanis Club of Whittier, and served as the president of the Los Nietos Teachers Association. Further, she received the PTA Honorary Life Member Award, Kiwanis Rookie of the Year Award and she has participated in numerous teaching related conferences.

I have had the opportunity to visit Aeolian Elementary School on several occasions as a teacher, observer, and presenter. On those occasions, I have witnessed that Mrs. Parks is indeed a dynamic individual who is well respected by students and teachers alike.

Mr. Speaker, on June 16, 1992, students, teachers, administrators, and civic leaders will gather to honor Mrs. Mercedes Parks for her tremendous contributions to the field of education and to our community. I ask my colleagues to join me in saluting this exceptional woman for her outstanding record of education service to the young people of my district.

TRIBUTE TO THE ART OF LUIS MEDINA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to call my colleagues' attention to the remarkable work of the late artist and photographer Luis Medina.

Born in Cuba in 1942, Luis Medina was exiled to the United States with his family in 1958. After working and studying art in Europe, he returned to Miami so he could earn enough money to complete an associate of arts at Miami Dade Junior College. He enrolled in the School of the Art Institute of Chicago, and completed his studies on merit scholarships.

Although he originally enrolled as a sculpture student, after working on a photography project with his childhood friend, Jose Lopez, he shifted his focus to photography. He earned a fellowship, the Fred J. Forster traveling fellowship, and used that period to travel across the United States developing his photographic abilities. The photographs which resulted from that trip were shown in exhibitions in Chicago, IL; Helsinki, Finland, and Sydney and Melbourne in Australia.

He continued his photography, supporting himself through teaching and lecturing, while producing more critically acclaimed photography exhibits, including a series on street gangs in 1982, for which he placed himself in danger for his art, with resulting photographs unlike any ever before taken in Chicago. Likewise, his exploration of Haitian voodoo was a revelation to those who are remote from it.

In 1985, Luis Medina died suddenly of a rare neurological disease. There has since been no photographer to take the place he created for himself. His photographic archives are presently being held by the Art Institute of Chicago so that an exhibition of his unique work can be prepared and published.

Mr. Speaker, I am pleased to offer tribute to Luis Medina and his extraordinary work, and his contribution to the richness of our art and culture. I congratulate Luis' mother, Olga Bohorques, for continuing a memorial at the Art Institute of Chicago in his name.

DEATH OF WILLIAM G. McGOWAN, CHAIRMAN OF MCI COMMUNICATIONS CORP.

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. RITTER. Mr. Speaker, there was a time in this Nation's history when every American held tightly to a very basic belief: That an individual could achieve whatever they set their mind to, regardless of the odds, if they only persevere. Bill McGowan, who we lost this past Monday, was in my view and the view of many others the living embodiment of this simple principle. We are poorer for his loss, but so much the richer for the life he led.

His life was a celebration of competition and competition infused his vision of the future of telecommunications. Here was a man who started with a single microwave link between St. Louis, MO, and Chicago, IL, and saw it grow into an international corporation with almost $9.5 billion in revenues. Millions of Americans today enjoy the benefits of the robust competition in the telecommunications industry which Bill McGowan inspired. The odds against his success were high, but he persevered and accomplished that which he set out to do.

And that, I believe, is the essential lesson of Mr. McGowan's life. It is a lesson which America must never forget.

A TRIBUTE TO AMBASSADOR PHILIP C. HABIB

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1992

Mr. FEIGHAN. Mr. Speaker, I note with deep regret the recent passing of the distinguished diplomat, Ambassador Philip C. Habib, who has been rightfully reckoned as the "Foreign Service Officer of his generation." Also today, Wednesday, June 10, a memorial service is being held in Ambassador Habib's memory at the National Cathedral.

It was after his retirement that Ambassador Habib was called upon to mediate some of the world's toughest problem spots: Lebanon, Central America, and the Philippines. We all recall the memorable role that Mr. Habib played as the personal representative of President Reagan for the Middle East from 1981–83 that brought the Ambassador's diplomatic wizardry—long appreciated by Presidents and Secretaries of State—to the public's attention.

The mission to mediate peace in Lebanon was of special significance to Ambassador Habib, as Lebanon was the land of his parents, and he always bemoaned that "we almost had it" in resolving the Lebanese conflict. His attention to the fate of Lebanon remained; he was a trustee of the American University of Beirut and was instrumental in founding and advising the American Task Force for Lebanon.

Mr. Speaker, let us all salute a noble and courageous public servant of the United States, the Honorable Philip C. Habib. For the RECORD I want to include these tributes from the New York Times and the Washington Post:

[From the New York Times, May 27, 1992]

PHILIP C. HABIB, LEADING U.S. DIPLOMAT IN ASIA AND MIDDLE EAST, IS DEAD AT 72

(By Catherine S. Manegold)

Philip C. Habib, a Brooklyn-born Lebanese-American who was one of the United States policymakers in the Middle East and Asia for decades, died Monday while vacationing in France. He was 72 years old.

Mr. Habib died of a heart attack, the United States Embassy said. He lived in Belmont, Calif.

Mr. Habib served in the Foreign Service for nearly three decades, and many years in retirement as a trouble shooter, crafting for himself a reputation as a tough and shrewd negotiator. He is credited with helping to arrange the cease-fire in Lebanon and the Palestine Liberation Organization's withdrawal from that country in 1982 following the Israeli invasion. He also played an important role in persuading President Ferdinand E. Marcos of the Philippines to go into exile in 1986.

ADVISOR TO 3 ADMINISTRATIONS

A former Ambassador to South Korea, he helped craft foreign policy across the region both in that capacity and later as a top advisor to three Administrations. Although he officially retired from the Foreign Service in 1978, citing health problems, he was recalled just a year later to work as a special adviser to Secretary of State Cyrus R. Vance.

He became known as a tough troubleshooter on behalf of the United States. His final assignment came in 1987, when he was called upon by President Reagan to be a special envoy in Central America. He resigned that post, and severed his ties with Government in August of that year.

Just before his death, Mr. Habib had travelled to Evian, France to give a speech at the Bilderberg Conference, an annual meeting of European and United States scholars and intellectuals. Dr. Henry A. Kissinger, who also spoke at that conference, yesterday recalled Mr. Habib as "Every Secretary of State's idea of a great foreign service officer."

MET IN VIETNAM

Dr. Kissinger first met Mr. Habib in Vietnam in the mid 1960's and recalled having been immediately impressed with his acumen and irreverence.

"I was taken to meet him by Ambassador Lodge." Dr. Kissinger said in a telephone interview, referring to Henry Cabot Lodge, who was then United States Ambassador to Saigon, "And when I met him, he said, 'I bet you are one of those Harvard smart alecs who knows everything.' Then he told me to go to the provinces and 'see what was really going on.'"

In his speech at the Bilderberg Conference, Mr. Habib spoke about the need to maintain the North Atlantic Treaty Organization and the importance of America's ties with Europe. Then, according to those who attended, in a departure from his usual preoccupations with foreign affairs, he spoke at length about United States domestic issues stressing the need for America to stand by its moral principles.

Friends said his involvement in that conference was typical of the elder statesman who, despite near fatal heart attacks dating to the late 1970's and two open-heart surgeries, never abandoned his interest in world affairs.

"He had no business going to these things," said Leslie H. Gelb, a former Pentagon and State Department official who worked with Mr. Habib in the 1960's at the height of the Vietnam conflict. "But he wanted to live, not just stay alive." Mr. Gelb is now a columnist with The New York Times.

REMEMBERED BY FRIENDS

Mr. Habib was remembered yesterday by friends as a man of zest, creativity and relentless earnestness in the face of great odds.

"He was the guy everybody knew," said Morton Abramowitz, the president of the Carnegie Endowment for International Peace, and a veteran of 30 years in the State Department. "Phil's career runs the gamut of all U.S. foreign policy. But he was particularly involved in the transformation of Asia. He contributed fundamentally to the shaping of foreign policy in that area."

Although Mr. Habib's expertise in the Foreign Service was mostly in Asia, particularly in Vietnam in the 1960's, where he was involved in the behind-the-scenes politics in Washington that eventually led President Johnson in 1968 to press for a negotiated end to the war, he was perhaps best remembered in later years for his work in the Middle East.

LEBANESE FROM BENSONHURST

A Lebanese Maronite Christian who grew up in a predominantly Jewish section of Bensonhurst, Mr. Habib became Undersecretary of State for Political Affairs in 1976. He remained in that post in the new Carter Administration and continued until he suffered the first of his heart attacks in December 1977.

In retirement, he became a popular trouble-shooter for President Reagan. He was called upon to help hammer out a peace settlement in Lebanon, which later collapsed. For that work, he was awarded the Presidential Medal of Freedom, in 1982.

In fact, his diplomatic career started almost on a whim. According to his daughter, Phyllis, Mr. Habib had planned a career as a forest ranger. A graduate of the College of Forestry and Wildlife and Range Sciences at the University of Idaho, Mr. Habib was studying for his Ph.D. in agricultural economics at the University of California at Berkeley when he spotted a notice for a test to enter the State Department. "He decided to take the test," said Ms. Habib, "And he passed it." His first assignments took him to postings in Canada and New Zealand.

The Vietnam War changed his life, however, and established his career as a diplomat.

"He was one of my heroes," Mr. Kissinger said. "The great thing about him was that he was a terrific soldier." Inside the State Department he won a reputation as a man who would fight over issues about which he cared deeply. Yet he was known, too, as a professional who followed orders.

During his tenure as Secretary of State, Mr. Kissinger said he relied heavily on Mr. Habib's advice. "I might not do what he said," he recalled. "But I wouldn't make a move without finding out what he thought."

Mr. Habib, a gourmet and connoisseur of fine wines, was on vacation with friends in Puligny-Montrachet, in the Cote d'Or region, when he collapsed, his daughter, said. Agence France-Presse, the French news agency, reported that he suffered a heart attack at his hotel and could not be revived by a medical team.

Mr. Habib was living in retirement in the family's home of 17 years in Belmont, Cali-

fornia. He was a Senior Research Fellow at the Hoover Institution at Stanford University, and was on the Board of Directors of the American University in Beirut. He also served on the Board of Directors of the Audi Bank of California, according to his daughter.

After his retirement, Mr. Habib remained an active alumnus of the University of Idaho where he set up the Philip Habib Endowment for the Study of Environmental Issues and World Peace.

Among other honors, Mr. Habib was decorated commander of France's Legion of Honor in 1988.

He is survived by his wife, Marjorie W. Habib; two daughters, Phyllis, and Susan W. Michaels of Vestal, N.Y. and a granddaughter, Maren K. Michaels.

[From the Washington Post, May 27, 1992]

PHILIP C. HABIB, 72, DIES; U.S. PEACE NEGOTIATOR

(By J.Y. Smith)

Philip C. Habib, 72, a career State Department official whose mastery of complex situations, skill at negotiation and seemingly inexhaustible patience led to key roles in efforts to bring peace to Vietnam, the Middle East and Central America, died of a heart attack May 25 in Puligny-Montrachet, France.

A resident of Belmont, Calif., since retiring from the State Department in 1978, he was on a private visit to the wine country of Burgundy when he was stricken.

The State Department issued a statement yesterday hailing Mr. Habib for his "profound contribution to U.S. foreign policy" and the "enduring legacy" of his work. It described him as a "man of great courage, unparalleled tenacity, high intellect and deep warmth."

From 1968 to 1971, Mr. Habib was a member of the U.S. delegation to the Paris talks that eventually ended the U.S. involvement in Vietnam, and for part of that time he was acting head of the delegation. Throughout his tenure his knowledge of the situation was regarded as crucial to the U.S. side, and he conducted some of the most difficult sessions with the North Vietnamese himself.

His next post was as ambassador to South Korea, where he served from 1971 to 1974. Recalled to Washington, he was named assistant secretary of state for East Asian and Pacific affairs. In 1976, he was promoted to undersecretary of state for political affairs, the highest post available to a career official.

Mr. Habib received that appointment from President Gerald R. Ford, and he continued in the job under President Jimmy Carter. He laid the groundwork for the Camp David Accords—the result of the dramatic meeting at the presidential retreat at Camp David, Md., of Carter, Israeli Prime Minister Menachem Begin and Egyptian President Anwar Sadat to discuss a settlement of the Arab-Israeli dispute.

Mr. Habib's retirement in 1978 was prompted by a heart attack—it was his second in six years—and he became a visiting professor at Stanford University and then a research fellow at the Hoover Institution.

In 1981, he was summoned by President Ronald Reagan to be his personal representative to the Middle East. The particular flash point at the time was Lebanon, torn by civil war and harried by rapacious neighbors. During two years of shuttle diplomacy Mr. Habib searched for a way to end the violence. Partly as a result of this work, Secretary of State George P. Shultz negotiated an agreement between Israel and Lebanon, but it foundered on Syrian intransigence and was never ratified. Mr. Habib, no longer welcome to the Syrians, returned to private life.

In 1986, Reagan called again. This time it was to appoint him a special envoy to the Philippines. In the same year, he was named a special presidential envoy to Central America. In 1987, he resigned when the administration ignored his advice to join an initiative that was started by other Central American governments to bring peace to Nicaragua.

Born in Brooklyn, N.Y., the son of a Lebanese grocer, Philip Charles Habib grew up a Catholic in a Jewish neighborhood. He graduated from the University of Idaho. After World War II service in the Army, he went to the University of California at Berkeley, where he earned a doctorate in economics. (His dissertation was on the economics of the lumber industry.)

By that time the degree was conferred in 1952, Mr. Habib had embarked long since on his career in diplomacy. In 1949, he was commissioned a foreign service officer. His first posts were in Ottawa and Wellington, New Zealand. He then returned to Washington. From 1958 to 1960, he was consul general in Port-of-Spain, Trinidad.

In 1962, after another period in Washington, he joined the U.S. Embassy in South Korea as political counselor. In 1965, with U.S. involvement in Vietnam deepening, he was assigned to the U.S. Embassy in Saigon, where he was chief political adviser to Ambassador Henry Cabot Lodge. In 1967, he returned to Washington as deputy assistant secretary of state for East Asian and Pacific affairs.

By that time, Mr. Habib was recognized as the State Department's leading authority on Southeast Asian affairs. He was thus a natural choice to join the talks in Paris that opened that year.

In his memoirs, former secretary of state Henry Kissinger described Mr. Habib as being "the antithesis of the public stereotype of the elegant, excessively genteel Foreign Service officer. He was rough, blunt, direct, as far from the 'striped-pants' image as it is possible to be."

W. Averell Harriman, one of those who served as chief U.S. representative at the Paris talks during Mr. Habib's time there, once remarked that a notable strength of Mr. Habib was his ability "to understand the other man's point of view." Many colleagues remarked on Mr. Habib's capacity for hard work, and he himself was quoted as saying, "If you are working 9 to 5 and if your wife is contented, you are not doing your job."

Mr. Habib was a former president of the Foreign Service Association and a recipient of the Rockefeller Public Service Award, the President's Award for Distinguished Public Service and the Presidential Medal of Freedom.

Survivors include his wife, the former Marjorie W. Slightam, whom he married in 1942, and two daughters, Phyllis and Susan.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 11, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 12

9:30 a.m.

Joint Economic

Technology and National Security Subcommittee

To resume hearings to examine the Nation's telecommunications and information infrastructure, focusing on the potential of a switched broadband network.

SD-628

JUNE 15

10:30 a.m.

Finance

Health for Families and the Uninsured Subcommittee

To hold hearings to examine various States' plans for improving access to health care and controlling health care costs.

SD-215

JUNE 16

9:30 a.m.

Energy and Natural Resources

To hold hearings on the safety of Soviet-designed nuclear power plants and on the technical and financial assistance being offered by Western nations to help improve the safety of these plants.

SD-366

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the current condition of the thrift industry and the outlook for its future.

SD-538

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR-253

Judiciary

Patents, Copyrights and Trademarks Subcommittee

To hold hearings on S. 1805, to revise title 17, United States Code, to clarify news reporting monitoring as a fair use exception to the exclusive rights of a copyright owner.

SD-226

2:30 p.m.

Select on Indian Affairs

Business meeting, to mark up S. 2481, authorizing funds for programs of the Indian Health Care Improvement Act.

SR-418

JUNE 17

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to examine telecommunications technology as related to the field of education.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Finance
To resume hearings to examine comprehensive health care reform, focusing on proposals for instituting universal coverage through public health insurance programs.
SD-215

Rules and Administration
Business meeting, to mark up pending calendar business.
SR-301

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the government of the District of Columbia.
SD-138

Veterans' Affairs
Business meeting, to mark up pending calendar business.
SR-418

10:30 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to examine the current condition of the thrift industry and the outlook for its future.
SD-538

Foreign Relations
To hold hearings on the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean (Treaty Doc. 102-30).
SD-419

2:00 p.m.
Armed Services
To resume hearings on S. 2629, to authorize funds for fiscal year 1993 for military functions of the Department of Defense, and to prescribe military personnel levels for fiscal year 1993, focusing on the bomber "roadmap" and related bomber programs, and on the Tri-Service Standoff Attack Missile (TSSAM).
SR-222

Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings to examine issues relating to maritime reform.
SR-253

Energy and Natural Resources
To hold hearings on the nominations of Jerry Jay Langdon, of Texas, and William C. Liedtke III, of Oklahoma, each to be a Member of the Federal Energy Regulatory Commission, Department of Energy.
SD-366

JUNE 18

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 2232, to require manufacturers of new automobiles to affix a label containing certain consumer information on each automobile manufactured after a specified year.
SR-253

Energy and Natural Resources
To hold hearings to examine State regulation of natural gas production.
SD-366

Finance
To continue hearings to examine comprehensive health care reform, focusing on proposals for tax-incentive based health care reform.
SD-215

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to examine international aspects of Asian organized crime.
SD-342

Select on Indian Affairs
To hold hearings on S. 2044, to assist Native Americans in assuring the survival and continuing vitality of their languages.
SR-485

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on the U.S. and Foreign Commercial Service, Department of Commerce.
SR-253

JUNE 19

9:30 a.m.
Select on Indian Affairs
To hold hearings on the proposed Crow Settlement Act.
SR-485

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to examine the U.S. Fish and Wildlife Service's administration of the National Wildlife Refuge System, and on S. 1862, to improve the administration, management, and compatibility process of the National Wildlife Refuge System.
SD-406

JUNE 23

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the National Telecommunications Information Administration, Department of Commerce.
SR-253

10:00 a.m.
Foreign Relations
To hold hearings on the Treaty Between the U.S. and USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102-20).
SD-419

2:30 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 225, to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia, S. 1925, to remove a restriction from a parcel of land owned by the city of North Charleston, South Carolina, in order to permit a land exchange, S. 2563, to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in New Jersey, S. 2006, to establish the Fox River National Heritage Corridor in Wisconsin, H.R. 2181, to permit the Secretary of the Interior to acquire by exchange lands in the Cuyahoga National Recreation Area that are owned by Ohio, H.R. 2444, to revise the boundaries of the George Washington Birthplace National Monument, and H.R. 3519, to authorize the establishment of the Steamtown National Historic Site.
SD-366

JUNE 24

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation relating to the National Indian Policy Center.
SR-485

JUNE 25

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S.1879, to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, S.1990, to authorize the transfer of certain facilities and lands in the Wenatchee National Forest, Washington, S.2392, to establish a right-of-way corridor for electric power transmission lines in the Sunrise Mountain in the State of Nevada, S. 2397, to expand the boundaries of the Yucca House National Monument in Colorado, to authorize the acquisition of certain lands with the boundaries, S. 2606, to further clarify authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands, and S. 2749, to grant a right of use and occupancy of a certain tract of land in Yosemite National Park to George R. Lange and Lucille F. Lange.
SD-366

JULY 1

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on mobile communications.
SR-253

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 1096, to authorize funds for fiscal years 1992 through 1995 for programs, functions, and activities of the Bureau of Land Management, Department of the Interior.
SD-366

JULY 2

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on fractionated heirships, Indian probate, oil and gas royalty management, land consolidation demonstration programs.
SR-485

10:00 a.m.
Veterans' Affairs
To hold hearings on S. 2028, to revise title 38, United States Code, to improve

and expand health care and health-care related services furnished to women veterans by the Department of Veterans Affairs.

SR-418

JULY 22

9:30 a.m.

Rules and Administration

To hold hearings on S. 2748, to authorize the Library of Congress to provide certain information products and services.

SR-301

AUGUST 4

9:30 a.m.

Select on Indian Affairs

To hold hearings on S. 2746, to extend the purposes of the Overseas Private Investment Corporation to include American Indian Tribes and Alaska Natives.

SR-485